



Costs Decision

Site visit made on 5 December 2022

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 22 February 2023

Costs application in relation to Appeal Ref: APP/L3815/W/21/3288037 11 Cow Lane, Sidlesham, Chichester PO20 7LN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr K Kensett for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of the Council to grant approval for "Change of Use of an existing agricultural building – former piggery building – to 1no Dwellinghouse (Use Class C3)".
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The application was made in a timely manner.
4. The applicant submitted details during the appeal process that were not available at the application stage, including plans and a section, and a planning obligation, to deal with the Council's concerns in reasons for refusal 3 and 4. So, the appeal could not have been avoided.
5. Regarding reasons for refusal 1 and 2, the appellant submitted its structural engineer's report (report) with the application. The Council considered it. The Council was entitled to exercise its planning judgment in considering whether the building as a whole was suitable for conversion to a dwelling in the first place. This included its assessment of non-structural elements such as the roof sheeting. The Council had not raised concerns about the report, which explains that it only deals with the building 'From a structural viewpoint', so there was no need for the Council to submit technical evidence to address the matter.
6. Attention has been drawn to my colleague's appeal and costs decisions ref W/4001105, where one of the buildings was similar to the appeal building, but as the Council's concerns in that case included the ability of the structures to support the proposed works, they differ from the proposal before me. Whilst the Council has granted approval for other similar local buildings, it has

explained that its Class Q assessments have evolved over time in line with case law and its review of appeal decisions. On a fair reading of the Council's response, the specifics of the cases in my colleague's appeal decision ref W/4001105 and the proposal are considered to be different to those of another colleague in his costs decision ref APP/L3815/W/21/3270874. Moreover, whilst approval of the conversion of a similar building elsewhere might provide some support for the proposal, the Council acted reasonably in considering the proposal on its merits.

7. Although the Council may have previously viewed the building 'from the road', its statement including its photographs of the building shows that it reviewed its case at the appeal stage. This includes its assessments of the condition of the building and whether the proposal would be a conversion or more akin to a rebuild. The Council acted reasonably in considering whether the proposal would fall within the definitional scope of the permitted development right, having regard to the limitations of the GPDO, case law, and PPG. The Council's reasons for refusal are complete, precise, specific and relevant to the application. It has substantiated its case in its representations.
8. The Council has complied with procedure during the appeal process including submitting its questionnaire and other relevant documents in accordance with the timetable. So, the Council's procedural behaviour has been reasonable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

J Reid

INSPECTOR