



Costs Decision

Site visit made on 23 February 2023

by A Hickey MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Costs application in relation to Appeal Ref: APP/W3520/W/22/3295602 Hill Farm, Huggins Lane, Stoke Ash IP23 7ER

- 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 Ms S Joslin of Hill Farm Partnership for a full award of costs against Mid Suffolk District Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class R of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a change of use of agricultural barn to Dance Hall.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive.
3. The appellant's claim alleges that the unreasonable behaviour is both procedural as it relates to the process and substantive as it relates to the issues arising from the merits of the appeal.
4. As explained in detail in the associated appeal decision, the Council were correct to refuse to grant prior approval as the application did not comply with the requirements of Class R of the GPDO and attaching conditions would not be procedurally correct. As such, the failure of the Council to seek legal advice was not necessary and would have unlikely altered the outcome of the associated appeal Decision. As such, the Council's findings have not prevented development that should have been permitted.
5. I note that the various email correspondence with the Council identifies that the department was very busy at that time and that at least one Council Officer dealing with the request did not work full time and therefore resulted in delays in actioning a response. Further to this, the applicant was advised of additional routes, including the submission of a certificate of proposed lawful use, pre-application or appealing the Council's decision.
6. In finding the appeal scheme did not comply with the requirements of Class R and issuing a decision within the statutory determination period, I do not find

the Council acted unreasonably simply because it was under a heavy workload and was not in a position to provide an update that the proposal would likely be refused. Furthermore, any update provided would have required amended plans and consultation, which could not be guaranteed to meet the relevant statutory determination period. It is, therefore, my view that the Council acted in a reasonable manner in determining the application and responding to later requests.

7. The appellant also states that the Council have been inconsistent in permitting other proposals under Class R subject to conditions for off-site works. However, as I have found with the associated decision, I cannot be sure, based on the information provided to me, that planning permission for the works had not been granted or was required. As such, the Council in reaching a different conclusion that conditions cannot be attached, does not amount to unreasonable behaviour.
8. Furthermore, there is nothing before me to conclude that the reason for refusal and Council's officer report do not substantiate the reason for refusal. It is clear that the scheme required associated operational development not granted under Class R of the GPDO. Nevertheless, the reason given on the Decision notice and explained in detail within the officer report matches my own findings in relation to the appeal decision.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Accordingly, I find that the costs application should fail, and no award is made.

A Hickey

INSPECTOR