



Costs Decision

Site visit made on 15 May 2023

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Costs application in relation to Appeal Ref: APP/D0121/W/23/3318636 Barn and land at Elwell Lane, Winford, Somerset BS40 8AH

- 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 Cornelius Pearce for a full award of costs against North Somerset Council.
 - The appeal was against the refusal to grant prior approval for change of use of an agricultural building and land forming the curtilage of the building to 2no. dwellinghouses (Use class C3) and associated building operations.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application was refused on the grounds that insufficient information had been submitted to demonstrate that the building could be converted within the parameters of Class Q. The decision notice indicates that, had the Council been satisfied that the proposal did constitute permitted development, it would have refused prior approval for reasons relating to the transport and highways impacts, contamination risks on the site and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to dwellings. The appellant is aggrieved at having to address the latter refusal reasons with evidence. However, the Council had no alternative but to explain its position on the prior approval matters, to deal with the eventuality that an Inspector did not agree with its stance over whether the proposal qualified as permitted development under Class Q.
4. The Council confirms that it did not reconsult the Highway Authority on the additional information submitted by the applicant's transport consultant during the application process. The appellant contends this to be unreasonable behaviour. However, the decision on whether hedgerow removal or relocation can be secured by condition lay with the Council and therefore I accept its explanation that reconsultation was unnecessary, given the concerns over a number of other highway-related matters.

5. During the application, the Council sought reassurance that the majority of the existing building would be re-used in the conversion. The applicant supplied a further report from their structural engineer, but this did not include an analysis of the foundations. According to information collated by the appellant, this level of detail has not been required for the majority of approved Class Q schemes in the District. I do not know the circumstances of those applications and as such it is difficult to make comparisons. The information supplied in this case was sufficient to persuade me that the proposal would constitute a conversion, but that does not make the Council's behaviour unreasonable. The authority was able to support its decision with coherent arguments, which incorporated views from a Building Inspector. Overall, I am satisfied that the decision on this main issue involved the exercise of professional judgement and therefore the appellant's evidence was a necessary part of the appeal process.
6. The Council's concerns over contaminated land risks would have come as a surprise to the appellant, given that it was not mentioned in correspondence during the application. The authority has provided no information to counter that supplied by the appellant on the historical use of the building, and it has provided no evidence to demonstrate that the change of use of the building for residential purposes would pose a substantive risk to future occupants. Nonetheless, I do not consider this to be unreasonable behaviour as Paragraph W(3) of the Order empowers the Local Planning Authority to refuse an application where insufficient information has been provided. The appeal provided the appellant with the opportunity to supply additional information, as indeed they did (albeit late) when they provided the asbestos survey report.
7. Overall, having considered the full circumstances of the case, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. As such, there is no justification for making a full or partial award of costs.

Robert Parker

INSPECTOR