



Costs Decision

Site visit made on 4 July 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

**Costs application in relation to Appeal Ref: APP/W0340/W/22/3309916
Limberlost Farm, Unnamed road from Crookham Common Road to
Limberlost Farm, Crookham Common, Thatcham, West Berkshire
RG19 8DH**

- 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 John Thorogood for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of the Council to grant approval required under Schedule 2, Part 3, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 – as amended, for the conversion of Nissen hut from agricultural to residential use.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. Paragraph W (11)(c) of the Town and Country Planning (General Permitted Development) (England) Order 2015 – as amended (the GPDO), affords the Council 56 days from when an application is made for prior approval for development proposed under Class Q, to notify the applicant as to whether prior approval is given or refused.
4. If the 56 days elapse without the applicant being notified as to whether prior approval is given or refused, as was the case in this appeal, then prior approval is deemed to have been granted. It was therefore unreasonable behaviour on the part of the Council, to refuse to grant prior approval for the development subject of the application after the prescribed period had lapsed.
5. As indicated within the appeal decision, it is outside of the remit of this appeal to consider the submitted evidence in respect of whether the development complies with other applicable limitations and conditions imposed on the planning permission granted via Article 3 and Class Q of the GPDO.
6. I appreciate that the Council has prioritised determining prior approval applications and adhering to the appeal timetable, and that this has been at the expense of being able to engage and negotiate with applicants/appellants. However, from the evidence before me, had they engaged in better communication with the applicant following the end of the prescribed period

and prior to their making a decision on the application, then this appeal may not have been necessary.

7. In challenging the Council's decision via an appeal, it was appropriate for the applicant to respond to and address the 3 reasons for refusal as stated on the decision notice. In doing so, the applicant incurred unnecessary expenses.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary expense during the appeal process has occurred and a full award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Berkshire Council shall pay to Mr John Thorogood, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to West Berkshire Council, details of those costs with a view to reaching agreement as to the amount.

V Simpson

INSPECTOR