



Costs Decision

Site visit made on 7 June 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Costs application in relation to Appeal Ref: APP/R3325/W/22/3308359 Orchard End Farm, Water Street, East Lambrook, South Petherton TA13 5HN

- 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 Jonathan Male for a full award of costs against Somerset Council
 - The hearing was in connection with an appeal against the refusal of prior approval for change of use and conversion of 1 agricultural building to 5 dwellinghouses under Class Q of Part 3 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
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Decision

1. The application is refused.

Reasons

2. The PPG advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant contends that the Council has incorrectly applied the GPDO and the PPG. This has delayed a proposal that should clearly be permitted. The Council has failed to produce evidence to substantiate each reason for refusal on appeal and has acted contrary to well-established case law. Additionally, it is alleged that the Council has been inconsistent in its decision making.
4. The Council has clearly erroneously referred to out-of-date extracts of the PPG. Nonetheless, in my view the essence of the Council's case is that the scope of the building operations takes the scheme beyond Class Q. This argument comes across clearly in the evidence and is not fatally undermined by the error.
5. The PPG does say that internal works are not *generally* development, and that internal works, including structural works, may form part of a scheme under Class Q. However, it does not say that internal works must therefore be excluded from any assessment as to whether or not a scheme would comprise a conversion under the terms of Class Q. This test is the first port of call pursuant to Hibbit. The Council grappled with the applicant's arguments about this issue both in the initial officer report and within its Appeal Statement.
6. The Council's argument about the render extending the barn is not well founded but was adequately expressed and reasoned in the Council's evidence, and so falls within the realms of legitimate planning judgment. Given such, I do not consider the Council's overall approach to be fundamentally flawed nor

contrary to case law. Indeed, my approach to the appeal is consistent with that undertaken by the Council.

7. As to the issue of inconsistency, as I stated in the appeal decision, Class Q is highly fact and site sensitive, and decisions that are made are often finely balanced and dictated by an array of site-specific circumstances. I do not therefore see any unreasonable inconsistency in this case. Even if there was, it is unclear how this has caused unnecessary expense in the appeal process itself.
8. Consequently, on the evidence before me, the Council's conduct does not constitute unreasonable behaviour that has resulted in unnecessary or wasted expense in the appeal process, as described in the PPG. An award of costs is therefore not justified.

Matthew Jones
INSPECTOR