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## Costs Decision

Site visit made on 17 May 2023

**by David English BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 July 2023**

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### **Costs application in relation to Appeal Ref: APP/N2739/W/23/3314361 Orchard Farm, Braegate Lane, Colton, Tadcaster LS24 8EW**

- 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 Rachael Teasdale for a full award of costs against Selby District Council.
  - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) on an application for a Part conversion of agricultural building to a dwelling.
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### **Decision**

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

### **Procedural Matters**

2. On 1 April 2023 North Yorkshire Council was created and is now the Local Planning Authority (LPA) for the area previously covered by Selby District Council. In my Costs Decision I do not differentiate between the two Councils, given their respective functions as LPA. However, while the application for an award of costs was made against Selby District Council, the award is necessarily made against its replacement as LPA, North Yorkshire Council.

### **Reasons**

3. 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.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. The Planning Officer's Report (the Report) states that '*It is not considered that the intention of Class Q is to allow conversions of buildings in parts to allow mixed uses of this same building*'. As a result of this interpretation of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), the Council came to the view that the proposal was not permitted development and refused the application for prior approval on this basis.
6. The Report provides no further explanation about the Council's interpretation of the intention of the GPDO. While noting an earlier relevant appeal decision to which the applicant has made reference (Ref: APP/P1805/W/15/3007943), the

Council maintains its opinion in its appeal statement, commenting that the appeal referred to is only one decision, and suggesting that decision might have related to a proposal comprising a smaller part of a building than the current case. The Council again maintains its opinion about the intention of the GPDO without further substantive explanation in its Costs Statement.

7. The applicant claims that the Council has acted unreasonably by delaying or preventing development that clearly should have been permitted; and that the Council has prolonged the proceedings by introducing new material on reasons for refusal.
8. I disagree with the assertion that the development should clearly have been permitted and my reasons are set out in my decision letter. However, the Council did decide on an interpretation of the GPDO for which no cogent explanation has been given, and one which is plainly incorrect. The Council has maintained its opinion and has failed to produce evidence to substantiate its reason for refusal. I therefore find that the Council has acted unreasonably in this respect.
9. By introducing new material on reasons for refusal during the appeal process the Council has behaved unreasonably. Its decision refusing permission should have included all the reasons it subsequently relied on at appeal. However, these are matters that are directly relevant to the appeal and that I would almost certainly have raised myself had the Council not done so. I therefore find that whilst the Council has acted unreasonably this has not resulted in wasted expense, in this respect.
10. In order to be successful in a claim for an award of costs it must also be demonstrated that the applicant has incurred unnecessary or wasted expense in the appeal process. Although the appeal is dismissed, I find that the applicant incurred wasted expense.

### **Costs Order**

11. 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 North Yorkshire Council shall pay to Ms Rachael Teasdale, the costs of the appeal proceedings in relation to the Council's reason for refusal on the Decision Notice only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to North Yorkshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*David English*

INSPECTOR