



Costs Decision

Site visit made on 25 July 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Costs application in relation to Appeal Ref: APP/K0235/W/23/3314830 Bell Farm, Wilden MK44 3DA

- 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 R A Gibson for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of the Council to grant prior approval for the change of use from an agricultural building to a C3 dwellinghouse.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The applicant is applying for a full award of costs on the substantive grounds that the Council's first reason for refusal states that insufficient information was submitted by way of a comprehensive structural survey to confirm the suitability of the building to be converted. However, the application was accompanied by a Building Condition Report, informed by an appended Structural Engineer's Report and structural calculations. The Council has not provided any specialist evidence of its own to contradict the findings within these reports.
4. In its defence, the Council suggest that the onus is on the applicant to justify their proposal. Whilst this is correct, should the Council disagree with the findings of specialist reports that are submitted in support of an application, then it must provide reasonable grounds for doing so, in order to robustly substantiate its reason for refusal. In this case the Council simply say that the submitted report is insufficient. The only explanation as to why the Council found the report to be insufficient, is in its delegated report, which refers to the absence of structural calculations. These were however included within the submissions.
5. Whilst it is a matter of planning judgement whether or not the extent of works required amount to conversion or go beyond this, in reaching its conclusion on this matter, the Council failed to have regard to the expert advice and structural calculations that were submitted in support of the proposal and has failed to substantiate its reasons for reaching a different conclusion.

6. The Council's second reason for refusal related to insufficient information being submitted in relation to the collection of household waste. This is not a matter that requires the prior approval of the Council under Class Q. However, this matter was not raised in the applicant's initial costs application and the Council has not had an opportunity to comment upon it. Moreover, when mentioning this point in its final costs comments, the applicant has not explained how this matter resulted in unnecessary expense being incurred in the appeal process. Accordingly, I have not considered this matter further.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified in relation to reason 1 of the Council's refusal.

Costs Order

8. 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 Bedford Borough Council shall pay to Mr R A Gibson, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending reason 1 of the Council's refusal notice; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Bedford Borough 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.

R Bartlett

INSPECTOR