



Costs Decision

Site visit made on 3 October 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Costs application in relation to Appeal Ref: APP/U1430/W/23/3314620 The Hay Barn, Downash Farm, Rosemary Lane, Flimwell, Ticehurst TN5 7PS

- 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 Mrs Nicola Roberts for a full award of costs against Rother District Council.
- The appeal was against the refusal of the Council to grant approval for the development described as 'changing the use from agricultural use to Class C1 under the Class R of the Town and Country Planning (General Permitted Development) Order 2015 (referred to as the GPDO).'

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The national Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs can only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicant contends that the Council has behaved unreasonably both procedurally and substantively and is seeking a full award of costs for the following reasons:
 - The Council registered the applicant's letter of notification to the Council as a formal application, without their consent or knowledge, which has resulted in a breach under the General Data Protection Regulation.
 - Preventing or delaying development which should be permitted, having regard to the GPDO.
 - Failure to produce evidence to substantiate its reason for refusal.
4. The applicant submitted a notification letter to the Council in August 2022, setting out their intention to change the use of the former agricultural building to a hotel (Use Class C1). The Council wrote to the applicant on 14 September 2022, stating that they were unable to accept the submitted document as a formal application as no fee had been submitted. It is clear from the Council's letter that the Council intended to register the applicant's notification letter as a formal application. The applicant paid the requested fee and the application was uploaded onto the Council's website. I do not find fault

with the Council in this regard as the payment of the application fee by the applicant is deemed acceptance of the registration of this proposal as a formal application. While the applicant argues that there was a breach under the General Data Protection Regulations, it is unclear from the evidence before me whether any additional information that would not usually be made public when an application has been validated was put into the public domain. Nevertheless, the issue of data protection is not a planning matter.

5. While the application was subject to objections from local residents, such comments are commonplace as part of the planning process and are outside of the Council's control.
6. The Council has provided a delegated report and appeal statement setting out their case. There is no doubt that the building was historically used for agricultural purposes as part of an established agricultural enterprise. However, the existing barn was sold off from the agricultural unit and does not appear to have been in agricultural use for some time. The applicant's notification letter clearly states that the existing barn 'is currently used for storage.' Based on the contradictory evidence provided by the applicant, I do not find that the Council has acted unreasonably in making their decision.

Conclusion

7. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

A James

INSPECTOR