



Costs Decision

Site visit made on 4 January 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Costs application in relation to Appeal Ref: APP/D2510/W/23/3321771 Grove Farm, Burgh Lane, Bratoft, Lincolnshire PE24 5AR

- 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 and Mrs G Everard for a full award of costs against East Lindsey District Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of one no. agricultural building to form one no. residential dwelling, including creation of new window and door openings.
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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. The applicant's case is that the Council has caused them to incur unnecessary expense in pursuing an appeal as the decision was not made within the timeframe for determining an application under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The Council considers the decision was made within that timeframe.
4. The GPDO is clear at Article 2(9) that where a decision is being issued electronically, if it is received by the recipient outside the recipient's business hours, it is taken to have been received on the next working day. The Council accepts it issued the decision outside the recipient's business hours. It therefore must be considered that the decision was received the following day which was outside the 56 day period for notification.
5. This is clearly contrary to the provisions of the GPDO. I can therefore only conclude that the decision of the Council to defend the appeal amounts to unreasonable behaviour which has put the appellant to unnecessary expense.

Costs Order

6. 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 East Lindsey District Council shall pay to Mr and Mrs G Everard, 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.

7. The applicant is now invited to submit to East Lindsey District 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.

J Downs

INSPECTOR