



Costs Decision

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Costs applications in relation to Appeal Ref: APP/C1625/X/23/3329840 The Old Office, Camp Farm, Stroud, Gloucestershire, GL6 7HJ

The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).

- The application is made by Mr Rory Baxter for a full award of costs against Stroud District Council
 - The appeal is against the refusal of a Lawful Development Certificate for the erection of an outbuilding.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against the party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the development was refused on the basis of unreasonable assertions of legal chronology rather than on legislative content, without any stated supporting legal basis, appeal decisions or Government Guidance. No coherent reason for refusal has been given but this has led to unnecessary additional costs in consultancy and legal fees.
4. In response, the Council state that the decision was based on judgement, this being the officer's interpretation of the permitted development legislation, referring to relevant case law and appeal decisions where available. However no such case law or appeal decisions were referred to in the Council's statement of case, which the Council accepts. They state that Part I Class E of the GPDO 2015 (Schedule 2) is unclear with regard to dwellings permitted under temporary use Class J.
5. The Council's approach fails to recognise the relevance of the wording in the legislative changes applying to permitted development rights and they appear to have interpreted it in a particular way over and above what the legislation and advice actually says.
6. The conversion of the building was under Class J of the GPDO 1995 which has since been revoked and no reference to it was carried forward to the GPDO 2015. Additionally the 2021 Order made no reference to Class E rights applying to buildings converted under previous legislation, which it could have done had that been the intention of the legislators.
7. Whilst the Council points out that officers are not required to seek legal advice on s192 applications, in this particular case, such advice may have been

helpful, particularly when by their own acknowledgement the legislation is unclear.

8. The applicant also considers that it is unreasonable and unnecessary for the appeal questionnaire to state that a site visit is essential when the Council only conducted a desk-based assessment. Whilst the Council's approach may have been unreasonable in this respect, it has not in itself led to additional expenditure.

Conclusions

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Costs Order

10. 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 Stroud District Council shall pay Mr Rory Baxter 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.
11. Mr Rory Baxter is invited to submit to Stroud District Council to whom a copy of this decision has been sent details of those costs with a view to reaching agreement as the amount.

P N Jarratt

INSPECTOR