



Costs Decision

Site visit made on 6 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2024

Costs application in relation to Appeal Ref: APP/M1005/W/23/3329983 Land at Gorses, Belper Lane End, Belper, Derbyshire

- 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 Latham Russell for a full award of costs against Amber Valley Borough Council.
 - The appeal was against a 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) for the conversion of an agricultural building to one dwellinghouse (Use Class C3) and for associated operational development.
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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, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, that behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant claims, in summary, that the Council acted unreasonably in failing to substantiate the reason for refusal, relying on vague, generalised, and inaccurate assertions about the existing building and the works proposed and in not permitting a scheme which complied with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
5. I have had regard to the evidence provided by both parties. Although the Council Officer Report raises some doubt over the nature of the building, the existing structure, and the works which would be required to enable the building to function as a dwelling, the Council has not provided any substantive evidence of what works they consider are necessary to enable the conversion. Nor have the Council provided evidence as to why they consider the works go beyond what would be reasonably necessary to enable the conversion.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. On the basis of the above, there is a clear failure of the Council to substantiate its reason that the building works would go beyond what is reasonably necessary. The Council have relied on vague and generalised assertions which are unsupported by any objective analysis or detailed justification.
7. As such, I conclude that the Council has behaved unreasonably in not justifying the reason for refusal. This has led to unnecessary and wasted expense for the applicant in their appeal.

Conclusion

8. For the above reasons, I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Amber Valley Borough Council shall pay to Mr Latham Russell the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to the 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

K Townend

INSPECTOR