



Costs Decision

Site visit made on 5 March 2024

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2024

Costs application in relation to Appeal Ref: APP/K0235/X/22/3303930 Freers Wood Farm, Pavenham Road, Carlton, Bedford MK43 7NA

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr Matthew Herridge for a full award of costs against Bedford Borough Council.
- The appeal was against the refusal of a certificate of lawful use or development for *'Proposed development permitted by Schedule 2, Part 3, Class R of the Town and Country Planning, General (Permitted Development) Order 2015 as amended, consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order'*.

Decision

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

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. Unreasonable behaviour may be either procedural – relating to the process – or substantive – relating to the issues arising from the merits of the appeal. This claim is concerned with substantive issues.
3. It is argued that the Council misapplied the requirements of Class R and misguided itself by placing disproportionate focus on the physical condition of the building. However, Class R permits development consisting of a change of use of a building. It seems to me that, in considering whether or not Class R rights existed in this case, it was beholden on the Council to ask itself the very basic question of whether or not there was a building on the site to which Class R Rights could apply. It was entitled to take the ruined state of the remnants of the farmhouse into account as part of that assessment.
4. It is said that the Council did not follow the approach adopted by Planning Inspectors in other appeal cases raised by the appellant. However, it appears to me that the question of whether or not Class R rights could apply to this former farmhouse was highly fact sensitive. Thus, the Council was not obliged, on the facts of this particular case, to reach the same decision as those planning inspectors. While it would have been preferable if the Council had directly addressed the appeal decisions raised by the appellant, since I consider

that the Council reached the right decision, that does not amount to unreasonable behaviour resulting in unnecessary or wasted expense.

5. For these reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Peter Willows

INSPECTOR