
Costs Decision

Site visit made on 7 May 2024

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Costs application in relation to Appeal Ref: APP/R3325/W/23/3333833 Agricultural Barns at Higher Farm, Higher Farm Lane, Podimore BA22 8JQ

- 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 Hopkins Estates Ltd for a full award of costs against Somerset Council.
 - The appeal was against the refusal of Prior Approval Application for the conversion of agricultural barns including associated works to facilitate 5 dwellings (C3 Use).
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Decision

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

Reasons

2. 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 considers that the Council acted unreasonably by reason of the decision being fundamentally flawed and thereby preventing or delaying development that should clearly have been permitted leading to significant and unnecessary expense. This is by virtue of considering matters related to the setting of listed buildings that the applicant considered do not form part of the scope of assessment under Class Q of the General Permitted Development Order and concluding harm in relation to this matter. Furthermore, that in light of this, the Council should have advised the Applicant whether a revised submission would be found favourable.
4. In response, the Council state that its assessment of the proposal and interpretation of the General Permitted Development Order was correct and that it has not therefore acted unreasonably. The Council further state that it did not fail to engage with the applicant who chose not to undertake further work necessary through pre-application discussions but to submit the appeal.
5. In response to this, the applicant states that the Council do not have resourcing capacity to deal with pre-application enquiries and as such the likelihood of receiving such advice was remote.
6. I have found in my main Decision, and the applicant acknowledges in their Final Comments, that the Council were entitled to consider whether the design and external appearance of the proposal impacts upon the setting of curtilage listed buildings.

7. The applicant may disagree with the Council's assessment and decision in relation to harm to listed buildings. However, this does not mean that the Council acted unreasonably in refusing prior approval. In this instance, the Council's Officer Report and Appeal Statement detail and substantiate the alleged harm based on relevant criteria within the GPDO.
8. Although I have found in the applicant's favour, it was not unreasonable for the Council to reach the view that it did. As such, I do not find that the Council acted unreasonably in refusing prior approval. In addition, the appeal provided an opportunity for the applicant to test the position and explain their case. In my view the Council provided reasons for its concerns which justified its position.
9. With regard to providing advice on a revised submission, the applicant chose to submit the appeal rather than engaging in further pre-application discussions that the Council advised were available. Although I acknowledge the resourcing issues and likely timescale for receiving pre-application advice, as the Council required more information for it to assess any effect on the setting of possible curtilage listed buildings, I do not find it unreasonable for the Council to require further information before it would comment on whether a revised submission would be considered favourably.
10. In light of the above, I do not find that the Council acted unreasonably through the consideration of matters related to the effect on listed buildings and by not advising whether a revised submission would be found favourable. This did not therefore lead to unnecessary or unreasonable costs for the applicant.
11. Accordingly, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
12. The application for an award of costs must therefore fail.

C Rose

INSPECTOR