



Costs Decision

Site visit made on 8 May 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Costs application in relation to Appeal A Ref: APP/C1625/W/23/3335574 Hengaston Farm, Bristol Road, Cam, Gloucestershire, GL11 5JE

- 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 Warren Davidson Developments Ltd for a full award of costs against Stroud District Council.
- The appeal was against the refusal of planning permission for external alterations to existing barns 1, 2 and 4 to facilitate the changes of use to 3 dwellinghouse.

Appeal B Ref: APP/C1625/W/23/3335576

Hengaston Farm, Bristol Road, Cam, Gloucestershire, GL11 5JE

- 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 Warren Davidson Developments Ltd for a full award of costs against Stroud District Council.
- The appeal was against the refusal of planning permission for erection of a dual pitched roof to existing barn to facilitate the change of use to a dwellinghouse.

Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The application for costs asserts that the Council behaved unreasonably by preventing or delaying development which should clearly be permitted, refusing planning permission on a ground capable of being dealt with by condition, acting contrary to case law, not determining cases in a consistent manner and refusing to provide reasonably requested information.
3. The Council had previously approved a prior approval on the appeal site for the conversion of the four barns to dwellings. However, during the course of the application relating to the proposed development they re-measured the drawings submitted on the previous Class Q scheme and concluded, despite previously approving the prior approval, that it could not be implemented as the floor space created would be too large. As such, a fall back did not exist. This came as a surprise to the applicant who had discharged conditions on the prior approval and paid a financial contribution to the Council.
4. The applicant's submission details correspondence with the Council prior to them issuing the decision attempting to understand how the measurements

were made. The Council were not forthcoming with this information. It was only after the decision was issued, and when a legal challenge was suggested by the applicant, that the method of calculation was provided by the Council's legal representative.

5. My main decision covers the fallback position, which states the wording contained within the relevant part of the legislation as '*the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order*'. It is clear that this relates to the completed dwelling as it does not refer to the existing floorspace of the agricultural building. It is my view that the Council, in re-measuring the prior approval drawings, misinterpreted this wording. Furthermore, they refused to engage in dialogue about how these measurements were achieved which could have highlighted the discrepancies and overcome their concerns.
6. The Council's costs submission details that the method of measuring used in the proposed development was the same as used in all Class Q prior approvals considered by them. However, this does not explain how the measurements differ from the approved Class Q and the consideration of the proposed development. Nor does it detail why when a reasonable request for the method of measuring was made, it was refused.
7. The Council acted unreasonably in disregarding the fall back position and failing to respond to a reasonable request for information which could have overcome the need for an appeal. Consequently, it has acted unreasonably in this regard and the reasons for refusal in relation to the location of the proposed development and highway safety were not fully justified. This caused the appellant unnecessary expense in pursuing an appeal in respect of these refusal reasons.
8. Turning to the character and appearance reason or refusal in Appeal B, the Council directed me towards appropriate planning policies that supported its decision. Whilst I came to a different conclusion in my main decision, the reason for refusal and the Officer's Report were clear in the concerns they raised. Accordingly, the Council's case was sufficiently explained and therefore, I can find no evidence of unreasonable behaviour within this particular regard.
9. It appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework (the Framework) and the PPG. The applicant has been faced with unnecessary expenses in the form of generating documents in preparation for the appeal.
10. I therefore find that unreasonable behaviour in relation to Appeal A and the first reasons for refusal in Appeal B resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

11. 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 to Warren Davidson Developments Ltd, the costs of the appeal proceedings described in the heading of this decision, where it relates to Appeal A and the first reason for refusal in Appeal B.

12. The applicant is now 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 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.

Tamsin Law

INSPECTOR