
Costs Decision

Site visit made on 16 October 2024

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2024

Costs application in relation to Appeal Ref: APP/C3620/W/23/3332982 Home Farm, Coldharbour Lane, Dorking, Surrey RH4 3JG

- 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 Aaron Gotto for a full award of costs against Mole Valley District Council.
 - The appeal was against the refusal of planning permission for Proposed change of use of one redundant agricultural barn to two semi-detached residential dwelling units (C3) and one studio/workshop (Use Class B1) to a single residential unit (C3).
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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 states that the Council admitted that its concerns could be dealt with through the submission of further information; did not raise matters regarding agricultural viability, structural robustness of the barn or lighting during the application; was dismissive of weight to be given to the status of the outbuildings; was reliant on information from the AONB Officer that has not been shared; and failed to professionally evaluate the requirement for extra survey information. The applicant further states that these matters are in the context of precedent set by the Council in similar conversions. As a result of these matters, the applicant states that they have suffered unnecessary expense in employing consultants to prepare assessments and fight the appeal.
4. No response to the applicant's cost claim has been provided by the Council.
5. While I acknowledge that during the course of the application the Council advised that matters could be dealt with via the submission of further information, such advice was non-binding, and the Council was entitled to change its position before issuing its decision. While it is good practice for the Council to advise of all of its concerns before issuing a decision, it is not required to do so and given its in-principal objection to the proposal, it was entitled to come to a decision without requesting further information. Furthermore, the appeal provided an opportunity for the applicant to address these matters.

6. In the absence of a Certificate of Lawfulness for the containers and mobile home, or other significant evidence demonstrating their lawfulness, it was not unreasonable for the Council to reduce the weight it gave to their removal.
7. The Council's assessment of harm to the AONB is outlined in its officer report, letter from the Surrey Hills AONB Officer dated 29 June 2023 and Statement of Case. Despite the absence of further written comments from the AONB Officer, the Council's position in relation to this is clear, supported by evidence and as a result is not unreasonable.
8. Although the structural survey demonstrated that the barn on the site is structurally sound and capable of conversion, on balance and given the two-storey nature of the conversion, it was not unreasonable for the Council to take a different view on the basis of a visual inspection that required the application of judgement. Even though the additional ecological survey demonstrates that there was a low risk to Great Crested Newts, in light of the comments from NatureSpace and Surrey Wildlife Trust, and on the basis of the evidence of the presence of a number of ponds nearby, on balance it was not unreasonable for the Council to take a different view to the initial ecological appraisal.
9. While other decisions from the Council are material considerations, given that the Council did not consider them to be closely comparable, and given that each application must be considered on its merits, the Council were entitled to come to a different decision on this application.
10. In light of the above, I do not find that the Council acted unreasonably through its correspondence, not raising all of its concerns, the weight given to various matters and other decision, reliance on information from the AONB Officer, or to the requests for further information. This did not therefore lead to unnecessary or unreasonable costs for the applicant.
11. Accordingly, I find that unreasonable behaviour on 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