



Costs Decision

Site visit made on 11 March 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Costs application in relation to Appeal Ref: APP/C1625/W/24/3357024

Breadstone Barn, Breadstone Lane, Berkeley, Gloucestershire GL13 9HE

- 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 Edward Davies for a full award of costs against Stroud District Council.
 - The appeal was against the refusal to grant approval 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) (hereafter referred to as the GPDO) for prior approval for a proposed change of use of an agricultural building to a dwellinghouse (Use Class C3) (resubmission of prior approval application S.23/1727/P3Q, allowed on appeal 19th July 2024).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. This application claims unreasonable behaviour by the Council in terms of (i) preventing development which clearly should have been permitted, (ii) acting contrary to well-established case law, (iii) not determining similar cases in a consistent manner, (iv) failing to grant a further planning permission for a scheme that is subject of an extant permission where there has been no material change in circumstances, and (v) persisting in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
3. My decision on the related appeal explains why I consider the proposal would not constitute permitted development under Class Q, Part 3 of Schedule 2 of the GPDO (Class Q). It follows that the Council has not acted unreasonably in preventing development which clearly should have been permitted.
4. The Council has not ignored the previous appeal decision relating to the subject building (reference number APP/C1625/W/23/3334405) as it is referred to in its submissions. The Council's case with this current appeal is seemingly different to that made in respect of the previous scheme. Nonetheless, the second refusal reason sets out specific and legitimate concerns that were not addressed through the previous appeal decision. I find the Council's objections in these regards are valid and reasonable as they do not directly contradict a finding made by the Inspector for the previous appeal. Also, as I agree with the second refusal reason, it is reasonable for the Council to contest the proposal would not be a conversion,

- even though it adopted a different approach on a Class Q scheme at Leys Farm elsewhere in the Stroud District.
5. The Council's first refusal reason relates to whether the floorspace of the proposed dwelling would comply with stipulations as set out under part Q.1(c) of Class Q. The dispute between the parties centres on whether any part of the area covered by the external walls of the proposed dwelling should be included when calculating its floorspace. In my appeal decision I have favoured the appellant's case of using gross internal floor area. However, the definition of floorspace within the GPDO does not explicitly state that this is correct. Accordingly, it is reasonable for the Council to adopt a fair degree of planning judgment on the matter.
 6. The appellant refers to planning appeal decisions and an associated costs award decision relating to a site called Hengaston Farm¹. With those decisions, the Inspector found the Council had misinterpreted the provisions of Class Q in that the floorspace stipulations relate to the proposed dwelling and not the original agricultural building. However, that is different to the issue raised with the current appeal as to whether the floorspace of the dwelling should or should not include the external wall area. The Inspector for the Hengaston Farm appeals did not state a view on this particular matter and so the Council's contentions in these respects do not contradict a previous Inspector's conclusions.
 7. The appellant contends the Council's first refusal reason is contrary to established case law as set out in *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314*. However, this judgement provides no commentary on whether floorspace conditions under Class Q relate to the gross external or internal area. As such, the Council's contentions in these regards are not inconsistent with case law. Moreover, it would seem from the evidence that the Council failed to consider the part Q.1(c) limits when assessing the aforementioned Leys Farm scheme. It would be inappropriate to follow the same flawed approach with the appeal proposal as it would bring into question the validity of any decision to grant prior approval. Therefore, I find the Council has not acted unreasonably in objecting to the appeal on the grounds set out in its first refusal reason.
 8. Under the third refusal reason the Council claims the development would be served by an unsafe access for pedestrians and cyclists. Such objections were not raised to the application leading to the previous appeal. Gloucestershire County Council as highway authority has raised concerns with the proposal but the thrust of its objections are over the location of the proposed dwelling and whether it would be accessible by modes of transport other than the private car. In any event, there is no evidence before me of changes to the local highway network and its suitability for use by pedestrians and cyclists since the Council's submissions on the previous appeal.
 9. The Council refers to an appeal decision relating to a site in the Bath and North East Somerset Council area (reference number APP/F0114/W/24/3338643). However, reference to this decision fails to adequately explain why the Council find the current appeal development would be unacceptable when it did not raise such issues with the previous appeal relating to Breadstone Barn. To my mind, it is unreasonable for the Council to raise new concerns on highway safety with the

¹ Appeal decisions reference numbers APP/C1625/W/23/3335574 and APP/C1625/W/23/3335576.

current appeal proposal, particularly as these objections rely on an appeal decision for a different proposal on a site a significant distance from the appeal property.

10. Therefore, I find that by objecting to the current proposal on highway safety grounds when it did not do so with the previous scheme for the barn, the Council has acted unreasonably by failing to determine similar cases in a consistent manner and without good reason. Through the appeal process, the appellant has responded to the Council's objections in these regards. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated. A partial award of costs is justified to cover the expense incurred by contesting the Council's third refusal reason on highway safety.

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 Mr Edwards Davies, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the third Council refusal reason concerning highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. 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.

Jonathan Edwards

INSPECTOR