Planning Inspectorate

Costs Decision

Site visit made on 4 March 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Costs application A in relation to Appeal Ref: APP/Z1510/W/24/3347822 The Barn, Tumblers Green, Stisted, Essex CM77 8AZ

- 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 and Mrs Mark and Kathryn Hughes for a full award of costs against Braintree District Council.
- The appeal was against the refusal to grant approval required 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) for the change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development.

Costs application B in relation to Appeal Ref: APP/Z1510/W/24/3352667 The Barn, Tumblers Green, Stisted, Essex CM77 8AZ

- 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 and Mrs Mark and Kathryn Hughes for a full award of costs against Braintree District Council.
- The appeal was against the refusal to grant approval required 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) for the change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development.

Decision

1. Applications A and B for an award of costs are refused.

Preliminary Matters

2. As set out above there are two applications for costs on this site. They relate to proposals which are identical. However, the specific claims of unreasonable behaviour identified by the applicant is different for each. I have considered each application on its individual circumstances. However, to avoid duplication I have dealt with the two applications together, except where otherwise indicated.

Reasons

3. 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.

4. For application A, on substantive grounds, the applicant contends that the Council have behaved unreasonably by acting contrary to, or not following, well-established case law. The Council contend that the relevant case law was not referred to by the

applicant in their original application submission and therefore it was not taken into account when making the decision.

5. It is noted that in their report the Council state that '…case law indicates that the making of cider is a manufacturing process and not an agricultural process.' No specific case law has been cited in this regard, which appears to be an omission by the Council. However, whilst it is clearly the case that well-established case law should be followed when deciding planning applications, it is not reasonable to expect the Council's Planning Officers to have a full knowledge of all case law. As the relevant case law was not put to them at the time of the application, it is understandable as to why the Council found the application for prior approval to be not in accordance with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). Therefore, the Council have not behaved unreasonably in coming to a different decision based on the evidence before them.

6. For application B, on substantive grounds, the applicant contends that the Council behaved unreasonable by introducing two new grounds for the refusal of the second planning application[1] which were not identified on the first planning application[2], when the proposal was identical. For the first planning application, the Council, in their report, highlight that although the scheme is not consider permitted development under Paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO they have considered matters under Paragraph Q.2 of Schedule 2, Part 3, Class Q of the GPDO for completeness. However, as they had already concluded that it would not constitute permitted development, this assessment does not go into any further details. Therefore, it is not unreasonable for the Council to consider the full conditions, limitations and restrictions of the GPDO for the second planning application where it was found to comply with Paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO, thereby identifying new reasons for refusal in the process.

7. Overall, I am not persuaded that the Council has acted unreasonably by acting contrary to, or not following, well-established case law or by introducing two new grounds for refusal on the second planning application. Therefore, whilst I note the costs incurred by the appellant, I find that it has not been demonstrated that these have resulted from unreasonable behaviour on behalf of the Council as described in the Planning Practice Guidance. For this reason, an award for costs for both applications is not justified.

Conclusion

8. For the reasons given above and having had regard to all other matters raised, an award of costs for both applications A and B is refused.

E Grierson

INSPECTOR

[1] 24/00177/COUPA (the second planning application)
[2] 23/02875/COUPA (the first planning application)