



Costs Decision

Site visit made on 1 April 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2025

Costs application in relation to Appeal Ref: APP/J0405/W/25/3358602 Burston Ridge Farm, Aylesbury Road, Wingrave, Buckinghamshire HP22 4RH

- 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 Burston Ridge Farm Developments Ltd for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of Prior Notification (Part 3, Class Q) for change of use and conversion of existing agricultural barn into three dwellings.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, relying on vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner. Paragraph 047 of the PPG² indicates that local planning authorities will be at risk of a procedural award being made against them for, amongst other things, introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense in preparatory work that would not otherwise have arisen.
4. The applicant claims, in summary, that the Council acted unreasonably in not determining the application in a manner consistent with other Class Q conversions which have been permitted; that the officer's assessment of the structural capability of the building and the cladding for conversion is not supported by an independent survey; and that the Council's statement introduces the matter of the effect of the development on the Chilterns and Beechwoods Special Area of Conservation (SAC).
5. With regard to consistency of decision and, even taking into account the additional information provided in the costs application, I do not have any compelling evidence that the other buildings referred to by the applicant have the same poor condition of cladding. I have noted in my main decision that, from the evidence

¹ Paragraph: 049 Reference ID: 16-049-20140306

² Paragraph: 047 Reference ID: 16-047-20140306

before me, the more modern building adjacent to the appeal building had more external surfacing material that could be retained and reused. The first two photographs within the costs application also show a building with cladding that is in a better condition than the appeal building.

6. The third photograph is less clear. However, the full structural survey for this building was provided by the applicant as an addendum to their Final Comments and also as an addendum to the costs application. The full structural survey includes additional photographs which appear to show the cladding on this building is also in a better condition than the appeal building. Even though the cladding on that building also has areas of damage I do not have any compelling evidence that the damage is to the same extent as the cladding on the appeal building.
7. As detailed in my main decision, I have no compelling evidence that the other buildings referred to are of a similar condition to the appeal building and, some clearly appear more capable of conversion. I, therefore, find that the Council has not acted unreasonably in regard to consistency in decision making.
8. The Council has clearly set out why they had concerns about the capability of the existing building to be converted to a dwelling. The Council would not have had to instruct an independent survey of the building to be able to see the condition of the cladding, which was noted in the applicant's structural survey as in a poor condition. As detailed in my main decision, I have similar concerns regarding the extent of the cladding which could be retained and re-used to ensure that the building is a conversion rather than a rebuild, even though the metal frame of the building is structurally sound. I, therefore, find that the Council has not acted unreasonably in this regard.
9. The applicant has advised that they would not have appealed the proposal had they been aware of the issue of the SAC as they accept that there is currently no mitigation strategy to address this matter. The Council has acknowledged that they did not raise the issue of the SAC until after the appeal had been lodged. Although the Council seek to argue that the applicant could have established that the site was within the Zone of Influence before submitting their planning application, the applicant also refers to the other conversions permitted on the wider site, where this issue was not raised. Furthermore, the Council should also have carried out due diligence and undertaken checks of relevant constraints, prior to determining the application.
10. The information on the SAC, the Zone of Influence, and the effect of this on the appeal scheme is readily available to the Council as much as it is to the public. The Council clearly introduced a new reason for refusal and new evidence at a late stage of the appeal.
11. The applicant, therefore, had to respond to the issue of the SAC and this led to unnecessary and wasted expense. For this reason, I conclude that the Council has behaved unreasonably in regard to this matter.

Conclusion

12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the need for the applicant to deal with the issues raised regarding the effect of the development on the SAC and a partial award of costs is therefore warranted.

Costs Order

13. 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 Buckinghamshire Council shall pay to Burston Ridge Farm Developments Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the issue of the effect of the development on the SAC. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Buckinghamshire 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.

K Townsend

INSPECTOR