
Costs Decision

Site visit made on 1 February 2016

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 March 2016

**Costs application in relation to Appeal Ref: APP/R3325/W/15/3130657
Agricultural building, Poole Farm, High Ham, Langport, Somerset
TA10 9DH**

- 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 S and G Allen for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the proposed change of use of an agricultural building to a dwelling (revised application).
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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 where a party has behaved unreasonably and that the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
3. Following the refusal of an earlier application on the site, the appellants submit that they provided adequate evidence in the application the subject of this appeal to demonstrate that the site was solely in agricultural use on the required date. The appellants are concerned that the Council introduced a new reason for refusal in respect of the appeal proposal relating to building operations which was not raised previously.
4. It is asserted that the Council misapplied or misunderstood the terms of Class Q of the GPDO¹ insofar as paragraph Q1 (i) allows for the installation or replacement of windows, doors, roofs, or exterior walls, and that it should have accepted the advice of a professional building design and construction expert that the building was suitable for conversion. Had the Council accepted the evidence submitted at the application stage, the appeal would not have been necessary and the associated costs would not have been incurred.
5. Whilst I note the appellants' concerns in respect of the use of the site, the statutory declarations submitted with the application from Oliver Howley and Leigh Rachel Hext related to the agricultural use of the fields in the ownership

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

- of the appellants, rather than the building, the subject of the application. It was not clear from these statutory declarations and that of the appellants that the equipment stored within the building was connected with an established agricultural unit. It was therefore not unreasonable of the Council to question the use of the building, as it was not clear at the application stage that the building was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.
6. A further statutory declaration submitted with the appeal satisfied the Council that the building was in agricultural use on the required date and it readily acknowledged that its concern about the use of the building had been addressed. The Council confirmed that its first for refusal had been addressed and this matter was no longer relevant to the appeal proposal. This was reasonable behaviour on the Council's part.
 7. In terms of the building operations proposed to facilitate the change of use of the building to a dwellinghouse, the Council submit that this reason for refusal was included following clarification within the Planning Practice Guidance (PPG) on this matter. This clarification was not published when the earlier application was considered by the Council, and I find that it was not unreasonable of the Council to take account of the guidance in the PPG in its determination of the appeal scheme.
 8. The planning application was not supported by detailed drawings showing how the existing poles would support the new walls on the southern elevation of the building. Furthermore, the opinion of O2i designconsultants that the building had sufficient structural strength to support the loadings from the new works was not substantiated by either detailed drawings showing how the walls, doors and windows would be supported by either the existing poles or independent foundations. It was therefore unclear as to the extent of structural work necessary to facilitate the building operations for the change of use.
 9. Given that the PPG makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements for the building, I find that on the basis of the submitted evidence the Council did not act unreasonably in refusing the application on this ground. Furthermore it substantiated its concern in the appeal process.
 10. In conclusion, I find that the Council has not acted unreasonably in the appeal process and the appellants have not been put to unnecessary or wasted expense. Accordingly an award of costs is not justified.

R C Kirby

INSPECTOR