



Costs Decision

Site visit made on 17 July 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2024

Costs application in relation to Appeal Ref: APP/Z2505/W/23/3334754 Stone Acre Farm, Sutterton Drove, Amber Hill, Boston PE20 3RS

- 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 J Featherstone for a full award of costs against Boston Borough Council.
 - The appeal was against the refusal of to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 – as amended, ‘to determine if prior approval is required for a proposed change of use under Schedule 2, Part 3, Class Q of Agricultural Buildings to 1no. smaller dwelling house (Use Class C3) and for building operations necessary for the conversion.’
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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.
3. The PPG advises that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceedings, behaviour, and actions at the time of the planning application can be taken into account in the Inspector’s consideration of whether or not costs should be awarded.
4. Paragraph W(11) of the Town and Country Planning (General Permitted Development) (England) Order 2015 – as amended (the GPDO), affords the Council 56 days from when an application is made for prior approval for development proposed under Class Q, to notify the applicant as to whether prior approval is given or refused.
5. If the 56-days elapse without the applicant being notified as to whether prior approval is given or refused, as was the case in this appeal, then prior approval is deemed to have been granted, if it is in fact permitted development. Whilst the Acknowledgement Letter from the Council was not necessarily clear, this letter was not misleading either as the applicant could have proceeded with the proposal, so long as they were satisfied that the scheme conformed with the limitations of the GPDO.
6. The main issue in considering the appeal was whether the proposed works fell within the scope that is allowed under Class Q in order to be permitted

development. I agreed with the Council that the proposal fell outside of the scope of Class Q. This would have been the case regardless of whether or not the decision had been made within the statutory 56-day limit. The Council did not act unreasonably in seeking to resist development on this ground and it did not prevent or delay development which should clearly have been permitted.

7. Concerning the Costs Decisions at Old Woodhall Road¹ and at Grove Farm², it was concluded in those cases that prior approval is deemed to be granted if the 56 days elapse without the applicant being notified and I came to a similar conclusion. However, in those cases the Councils challenged whether they had issued the decisions on the correct date within the 56-day period whereas the Council, in this instance, acknowledge it did not make its decision within that period.
8. Additionally, the Council, in this instance, did not contest that prior approval should be granted in the event that the development was considered to comply with the limitations set out in Q.1 of the GPDO which was a reasonable approach to take, in these circumstances. In consequence, in submitting the appeal, the appellant was not subjected to wasted, or unnecessary expenses.
9. Therefore, for the preceding reasons, an award of costs is not warranted.

G Sibley

INSPECTOR

¹ Appeal Ref: APP/D2510/W/22/3300279

² Appeal Ref: APP/D2510/W/23/33321771