The Planning Inspectorate

Costs Decision

Site visit made on 15 December 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Costs application in relation to Appeal Ref: APP/C3430/W/20/3259550
Brinsford Farm, Brinsford Lane, Slade Heath WV10 7PR

- 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 Warm Beautiful Homes for a full award of costs against South Staffordshire District Council.
- The appeal was against the refusal of planning permission for the conversion of agricultural building to 3 dwellings.

Decision

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

Reasons

2. The Planning Practice Guidance (the 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.

3. The applicant is of the view that the Council have, in refusing prior approval for the proposed development and then failing to defend this position at appeal, has led to unnecessary expense in the pursuance of an appeal. In the applicant's view the Council have: prevented development which should clearly have been permitted; failed to produce evidence to substantiate their reason for refusal on appeal; made vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis; acted contrary to, or not following, well-established case law; and persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.

4. No comments have been made by the Council in response. Nor did the Council submit an appeal statement. While a statement is not obligatory, it did mean that the applicant's submissions which raised numerous concerns with the Council's stance were not addressed.

5. I am mindful that this topic does require a judgement. Given the information available, the Council would have needed to have regard to the relevant provisions of the GPDO, the Act, case law and the Guidance which collectively form the basis on which an assessment is to be made. While it is fair to say

that Class Q does not envisage substantial demolition, it does permit partial demolition and the installation and replacement. The latter is particularly key as it relates to windows, doors, roofs or exterior walls. All these elements form part of the appeal scheme and a component of the Council's concern about much of the building's external fabric being removed. There was detailed evidence before the Council, which included a structural assessment, to enable thorough reasons to be set out explaining why these works were felt to be outside the scope of Class Q, especially as the steel frame, concrete walls and timber cladding would be retained or re-used.

6. Nevertheless, a narrow view was taken by the Council in respect of the new concrete ground floor and the internal walls that would support a new first floor. The Council solely relied upon the GPDO and did not account for Section 55(2) of the Act or the Guidance in respect of internal works. Although a judgement is still needed, the Council did not appear to grapple with either in substantiating its case, especially when the structural assessment confirmed that the existing structure would not be reliant on the new concrete floor.

7. The Council's approach to the internal works and view taken about elements of the scheme that are permitted by the GPDO bring into question whether the Council should have refused the prior approval scheme. However, even if they did not prevent development which should clearly have been permitted, the Council made vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis and then failed to produce evidence to substantiate their reason for refusal on appeal. These actions have led to unnecessary or wasted expense for the applicant.

8. Although the applicant cited an appeal decision in support of their case, this decision was reached having regard to the construction of that building. The Council was entitled to consider the appeal building on its own merits and in the context of the works proposed. The Council has not therefore persisted in objections to a scheme previously indicated to be acceptable.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

Conclusion

10. 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 South Staffordshire District Council shall pay to Warm Beautiful Homes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

11. The applicants are now invited to submit to South Staffordshire District 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.

Andrew McGlone

INSPECTOR