
Costs Decision

Site visit made on 31 January 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 20 February 2017.

Costs application in relation to Appeal Ref: APP/B9506/W/16/3153805 The Barn, Nuthooks House, Old Romsey Road, Cadnam SO40 2NP

- 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 Peter Day for a full award of costs against New Forest National Park Authority.
 - The appeal was against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended).
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Decision

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

Reasons

2. The Planning Practice 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.
 3. The applicant sought approval under Schedule 2, Part 3, Class O of the GPDO for the change of use of an office to a dwellinghouse (Ref 16/00187). The local planning authority issued a decision which concluded that the proposal was not permitted development. The applicant disagreed with this conclusion and, consequently, a further application which sought to discharge a pre-commencement condition under Regulations 73 -76 of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) was submitted. However, the local planning authority declined to consider this application. The applicant considers that the failure of the local planning authority to determine the application amounts to unreasonable behaviour which has caused him to incur unnecessary expense in making the appeal.
 4. The requirement for prior approval is worded as a condition attached to the grant of permission by Article 3(1) of the GPDO, and so prior approval only becomes relevant if the proposed development falls within the permitted development right. The Authority dealt with its concerns by determining that the proposal could not be permitted development using the approach provided by paragraph W(3) of the GPDO.
 5. Similarly, Regulations 73-76 of the Habitats Regulations only become relevant if the proposed development falls within the permitted development right and, therefore, the Authority declined to consider the application.
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6. For the reasons given in the Decision, I have concluded that the proposal does not satisfy the requirements of the GPDO with regard to being permitted development. This is consistent with the Authority's conclusions and I note from correspondence that this opinion was communicated to the applicant during the course of the application.
7. Consequently, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is, therefore, not justified.

Debbie Moore

Inspector