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## Costs Decisions

Site visit made on 5 June 2018

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 July 2018**

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### **Alleged Costs application A in relation to Appeal Ref:**

**APP/Y2736/W/18/3196384**

**Former Grain Drier, Old Manor Farm, Helperthorpe, Malton, North Yorkshire YO17 8TQ**

- The application is alleged to have been 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 alleged to have been made by Ms Lynne Porter for an award of costs against Ryedale 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 (as amended) for the change of use under Class Q(a) of an existing redundant steel-framed agricultural building (formerly a grain drier and now used for crop, equipment and materials storage) into a single C3 residential dwelling with five bedrooms.
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### **Costs application B in relation to Appeal Ref: APP/Y2736/W/18/3196384**

**Former Grain Drier, Old Manor Farm, Helperthorpe, Malton, North Yorkshire YO17 8TQ**

- 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 Ryedale District Council for a full award of costs against Ms Lynne Porter
  - 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 (as amended) for the change of use under Class Q(a) of an existing redundant steel-framed agricultural building (formerly a grain drier and now used for crop, equipment and materials storage) into a single C3 residential dwelling with five bedrooms.
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## **Decisions**

1. Alleged Application A for an award of costs is refused.
2. Application B for an award of costs is refused.

### *Alleged Application A*

3. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce
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- evidence to substantiate each reason for refusal or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant indicates at the end of the appeal statement that a separate application is to be made for costs. However, although the appellant submitted an invoice to the Council dated 20 February 2018 titled 'Costs Application' no formal application for an award of costs, in a form that clearly sets out why it is considered that the Council may have acted unreasonably, has been submitted.
  5. The PPG indicates that an application for costs can be made by letter, or by using the Planning Inspectorate's application form, neither of which have been submitted in this case. The invoice submitted to the Council was a financial calculation only of the appellant's alleged costs in submitting the appeal and responding to the Council's statement. It does not provide any information whatsoever as to how the appellant considers that the Council may have acted unreasonably.
  6. Although the Council provided a rebuttal in respect of the content of the invoice no other information was provided by the appellant in the form of an application for costs that demonstrates clearly how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. The Council's rebuttal to the invoice was based on supposition and interpretation from the appeal statement as to where the appellant may have considered that unreasonable behaviour could have occurred. It was not based on any other evidence that was provided in a formal application for an award of costs.
  7. In the absence of a formal application for costs that clearly sets out how the appellant considers that the Council may have acted unreasonably, there is no basis for me to determine whether any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Consequently, I have attached no weight to the Council's views which were based on assumption rather than a direct response to a formally submitted costs application.
  8. In the absence of any other information, the invoice provided to the Council is a financial calculation only. I do not consider that this constitutes a formal application for an award of costs that takes into account the advice provided in the PPG in respect of setting out how unreasonable behaviour has occurred. Even if I were to accept the invoice as a formal application for an award of costs, in providing no other evidence unreasonable behaviour by the Council cannot be demonstrated.
  9. Consequently I consider that there is no application for an award of costs submitted by the appellant before me on which I can make any decision of the extent to any unreasonable behaviour has resulted in unnecessary or wasted expense. Thus I am unable to make any decision on this matter other than to confirm unreasonable behaviour by the Council resulting in unnecessary expense has not been demonstrated.

#### *Application B*

10. The basis of the Council's application for costs is on the grounds that the application had little prospect of success as the existing buildings would not benefit from permitted development pursuant to Class Q of the GPDO. I acknowledge that large sections of the appellant's statement comprise

interpretation of planning law and policy. However, they are all relevant to the case.

11. Given the nature and substance of the dispute, the appellant was not unreasonable in considering there was some support in case law for the prior approval. The fact that the appellant disagreed with the Council's approach and assessment does not amount to unreasonable behaviour resulting in unnecessary expense in the appeal process. In my view, the nature of the dispute between the parties meant that an appeal was inevitable.
12. I therefore find that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in the evidence before me. I find that the appellant's statement adequately was entirely relevant and addressed the reasons for the refusal to grant approval required under Schedule 2, Part 3, Class Q of the GPDO in some detail. Thus an award of costs is not justified.

*Stephen Normington*

INSPECTOR