

GREEN BELT BLUES

General Information

Background

Three years ago Mike and Pat Taylor bought a barn at auction for £189,000. It was situated in a Green Belt area and had planning permission for converting into a three-bed dwelling. It was the fulfilment of a dream, for the views across open countryside were spectacular and it was the perfect place to build a home to raise their children and hide away from the everyday bustle of city life.

They employed Chris Evans as their Architect. Chris was young and talented and a rising star. Everything went well at first. The designs were completed and approved (by client and by the Planning Authority), budgets were prepared (and trimmed), a contractor appointed and work started, all in less than six months. The roof coverings came off and the timbers surveyed. It was then that the poor state of the walls was fully realised. The two long walls bowed and leaned and the bearing points of the main roof trusses were found to be crumbling. Chris instructed the builder to carefully dismantle the roof trusses and store them for re-use, and brought in a Structural Engineer to advise on the work to the walls.

Mike and Pat were presented with two options:

- Strengthen all the walls by underpinning and casting ring beams and tie beams,
or
- Totally rebuild the walls on new foundations.

Because one gable wall was becoming almost totally glazed, this latter option would mean that three walls would be demolished.

The first option was the least attractive. It would take them well over budget and they would still have a 'faulty' structure, which may inhibit selling the house in the future. The second option was more attractive because they would have a new structure **and it would be zero rated for VAT!** In Mike's thinking, this was a 'no-brainer' and he told Chris to "get the walls down".

But there was one problem with this option. The planning approval assumed repair and conversion and the Planning Authority did not give permission for new build in the Green Belt area. If Chris applied for revised planning approval, it was unlikely that permission would be granted.

While they were deliberating, one of the walls collapsed. The reason for this was never discovered but the effect was to destabilise the whole building. Mike and Pat acted swiftly and repeated their instruction to Chris to get the walls down. Chris told the builder to increase his workforce and work overtime, so that the rebuilding would be done swiftly in the hopes that the Planning Authority would never know.

Of course, it didn't work that way. The Planning Officer made a visit (out of interest, though there was a suspicion that she had been tipped off) just as the second wall was being taken down. All hell broke loose. She stopped the work and followed up with an order to demolish the remains of the building and restore it to Green Belt land. Her justification was that there was not enough of the original building to comply with the planning permission and new buildings were prohibited in the Green Belt area.

Mike and Pat were devastated. Suddenly their dream home was a nightmare, their investment (now approaching £300,000) a potential total loss. As Green Belt land they might recover £2,000 of what they had spent.

They engaged a Planning Consultant, who in turn appointed a Barrister. They advised making a new planning application. It was refused. They advised appealing. They lost. They advised going to the Secretary of State. Again, permission was refused. Another £55,000 later they vacated the site and cut their significant losses.

Of course, someone had to pay and so Mike and Pat sued both Chris and the Planning Consultant in two separate actions. After nearly two years, all parties agreed to mediation.

The Claims

Mike and Pat sued Chris for £390,000 (being the original purchase price plus abortive building work of around £100,000 plus professional fees paid of £45,000 to Chris and £55,000 to the Planning Consultant/Barrister) plus interest (around £25,000) and costs (£45,000 and rising plus £25,000 in the action against the Planning Consultant). The professional fees included the Planning Consultant and Barrister's fees. Their reason was that Chris instructed the demolition of the walls knowing that it contravened the planning approval.

They also sued the Planning Consultant for £55,000, being return of the fees paid to them and the Barrister, plus interest (unquantified) and costs (£25,000). Their claim was based upon the belief that they had poor advice and no satisfactory result. This, of course duplicates part of the claim (£55,000 + £25,000) against Chris.

Attending the Mediation

Mike OR Pat Taylor
Their solicitor

Chris Evans, their Architect
Chris's Insurer

Planning Consultant

Mediator (s)

