
Costs Decision

Site visit made on 11 October 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 2 December 2016

**Costs application in relation to Appeal Ref: APP/P0119/W/16/3155215
Hill House Farm, Sodbury Road, Wickwar, South Gloucestershire GL12 8PA**

- 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 Jason Jones for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for change of use of barn to tourist accommodation.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 application for costs alleges that the Council introduced policy tests that were not relevant to the determination of the application and were not applied in other similar applications. Furthermore, that the Council incorrectly asserted that the proposal was tantamount to the rebuilding of the existing building which, according to the applicant, is factually incorrect.
4. In particular, the applicant refers to policy E7 entitled 'Conversion and Re-use of Rural Buildings' cited in the Council Officer's report. Despite the title, the text of the policy refers to the conversion and re-use of buildings for employment purposes. The applicant argues that it should not have been applied to consideration of an application for change of use to tourist accommodation.
5. Notwithstanding that in the appeal decision I did not find the policy to be directly applicable, I note the Council's explanation that it found it relevant because the applicant was relying on the economic benefits of the proposal. Though I find that connection tenuous, there are very similar criteria contained in policy H10 'Conversion and Re-use of Rural Buildings for Residential Purposes' which both parties agree was clearly relevant to determining the proposal.
6. That repetition of similar criteria is recognised in the Officer's Report which considered the application against a wide range of policies. I do not consider that the inclusion of E7 in that comprehensive assessment had a decisive

impact or tipped the balance one way or the other, as the Officer found against the proposal on the basis of a number of other policies.

7. A similar planning application, Ref PK13/4459/F, is cited by the applicant where policy E7 was not referred to. That application is discussed in the appeal decision and though there are similarities there are also differences with the appeal proposal. Though I do not know the full background, that proposal was assessed against policy H10 which, as already established, contains similar criteria to E7. In any event, each application is considered on its own individual merits and characteristics. Consequently, I do not consider that the Council has acted unreasonably in that respect.
8. The applicant's view is that the proposal was not accurately considered against policies H10 and E11; though it is accepted both policies are relevant. Whether a proposal accords with policy is a legitimate matter of planning judgement which it is for the Council to consider in the first instance.
9. The Council was incorrect, according to the applicant, in considering that the building was not capable of conversion without major or complete reconstruction, which forms part of criterion B of H10. The applicant says that the structural report showed that the building was structurally sound and that the Council conflated the issue of structural soundness with the extension, which should properly have been considered under criterion D of the policy.
10. I do not agree that the Council conflated those two aspects. Rather they argued that the extent of the proposed changes, with a significant extension and other remodelling, were so substantive that it amounted to major reconstruction and was tantamount to a new building. Whilst the applicant asserts that the meaning of major or complete reconstruction is clear, it is not defined in the policy so it is a matter of definition and judgement.
11. Though ultimately I did not concur with the Council's view on that issue in the appeal decision, it does not imply that there was not an arguable case on the matter. Whilst the Officer's report discusses the extension in relation to criterion B rather than D, it is considered along with the residential curtilage within the Council's assessment of whether the proposal was in accord with H10. I consider that there was a reasonable debate to be had on those issues.
12. Therefore, whilst I have fully considered the points made by the applicant, I am not persuaded on the basis of the evidence before me that the Council has acted unreasonably. As such, I do not agree that the applicant was put to unnecessary or wasted expense.

Conclusion

13. I therefore find, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Jonathan Tudor

INSPECTOR