



Costs Decision

Site visit made on 13 July 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Costs application in relation to Appeal Ref: APP/Q3305/W/20/3247213 Hornblotton Farm, Hornblotton, Shepton Mallet, Somerset BA4 6SF

- 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 Ms F Litherland for a full award of costs against Mendip District Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2.(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended for the change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development.
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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 officer report provides clarification as to why the Council considers that the proposal would not be permitted development, including the lower parts of the walls not being connected to the ground. The appellant cites a number of other buildings that have been given prior approval, that have similarities in external appearance to the appeal building. There is no clear evidence that those other examples share this wall construction. However, the Council refers to *Hibbitt and Another v SSCLG and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)*, where the barn in question did share this characteristic. Accordingly, the Council's position was adequately explained and justified without a detailed response to the appellant's expert evidence.
4. Although the wall construction is shared by the adjoining part of the barn where prior approval has been given by the Council, there are other differences in construction to the remaining parts of the outer walls. I have found no reason for those differences to prevent the appeal proposal also being permitted development. However, *Hibbitt* confirms that the point at which a conversion becomes a rebuild or 'fresh build' is a matter of legitimate planning judgement.
5. With regard to the above, I find insufficient evidence that the Council has not determined similar cases in a consistent manner. I therefore find that

unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

6. Accordingly, the application for an award of costs is refused.

M Bale

INSPECTOR