



Costs Decision

Site visit made on 20 May 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Costs application in relation to Appeal Ref: APP/J0405/W/21/3267163 Ruby Farm, Piddington Road, Ludgershall, Buckinghamshire HP18 9PJ

- 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 Christopher McNally for a full award of costs against Buckinghamshire 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 for determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of agricultural barn into one dwellinghouse (Class Q(a) and in relation to design and external appearance of the building (Class Q(b)).
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Decision

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

Reasons

2. National Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. Claims can be procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. From the evidence, it is clear that the Council, in determining the appeal application considered it on its merits. From a review of the Officer's Report, the RWA Structural Report, which was submitted alongside the application was given due consideration. Therefore, whilst Officer's may have come to a different view, this does not necessarily mean that the Council failed to accept its conclusions.
5. To my mind, there is however some confusion which appears to be caused by a previous application on the site which suggested a completely different approach to the conversion of the building, which involved the removal of all the existing cladding. From my review of the information submitted with the appeal application, there appears to be no indication to fully explain why a different approach, which retained all but the roof, was now proposed.

Furthermore, given that the roof materials would appear to be identical to that which is on the side of the building, there appears to be a significant level of contradiction and lack of clarity within the appeal application. Given the need to assess the proposal against the requirements set out in Part Q, which includes understanding the level of building work to be undertaken, on the basis of the above, I therefore do not find that the position taken by the Council to be unreasonable.

6. Reference is made by the appellant to incorrect assertions with regards to elements of the cladding being missing from the building. At the time of my visit, I noted that, whilst the majority of the elevations of the building appeared to be fully clad, elements of the roof were not. Furthermore, there was a portion above the main door to the building that was either missing or incomplete. It therefore follows that, in coming to their decision, the Council did not rely upon incorrect assertions.
7. In terms of the overall process for dealing with the appeal application, whilst I understand that the appellant, having submitted additional information feels that the Council did not fully engage with him during the process, I find no evidence to support this claim. Notwithstanding Paragraph 38 of the National Planning Policy Framework, there is also a requirement upon the appellant to provide the necessary information to support the application. As will be seen from my decision on the appeal application, I find there to be key information lacking.
8. With regards to the potential of a fall-back position, as can be seen from my decision on the appeal application, such a position does not exist in this case. The application was seeking prior approval under the GPDO, with Part Q clearly setting out the required tests that the proposal must meet to be considered permitted development. None of these tests allow any consideration of fall back. Had this proposal been for a planning permission then an assessment of this fallback position would have formed part of the Council's decision-making process, but in this instance, such a consideration is not required.
9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR