



Costs Decision

Site visit made on 22 June 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Costs application in relation to Appeal Ref: APP/L3815/W/21/3270874 112 Second Avenue, Batchmere, Chichester PO20 7LF

- 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 Mrs Maureen Doyle for a full award of costs against Chichester District Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development.
-

Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant draws attention to the lack of technical evidence on the part of the Council to counteract the appellant's structural engineer's reports. The Council did criticise the condition of the existing building, describing it as poor and the steel frame as sporadic. However, the main thrust of the Council's argument was based less around the structural integrity of the existing building, but rather whether it was suitable for conversion without requiring significant intervention, and whether the works proposed went beyond what was reasonably necessary to enable the building to be converted and in effect amounted to a new building.
4. In arguing that approach, the Council referred to the case of *Hibbitt*¹. In that case, while it was accepted that the structure of a barn would be sufficient to bear the load of a proposed development, and the conversion works were reasonably necessary for the building to function as a dwellinghouse, it was nevertheless held that the works amounted to a rebuild rather than a conversion, and therefore fell outside the terms of the permitted development right under Schedule 2, Part 3, Class Q.

¹ *Hibbitt et al v SSCLG and Rushcliffe BC* [2016] EWHC 2853 (Admin)

5. The Council acknowledged the structural engineer's advice but nevertheless considered the works exceeded those which might reasonably be considered necessary for conversion, and provided a detailed justification for doing so in its case report and appeal statement. While I have found in favour of the appellant on this issue in the appeal, I accept that there are grounds for the Council's argument, particularly having regard to the case law established by *Hibbitt*.
6. The appellant has also drawn attention to the recent grant of costs against the Council in refusing another case for prior approval under Class Q². I have read that decision and while I acknowledge that there are some similarities between the two cases, there are also differences in the form of the respective buildings and the works required to convert them to dwellinghouses. In that case the Inspector concluded that there was no evidence to support an argument that the proposed development amounted to a rebuild rather than a conversion, whereas in this case I consider there is at least some basis for that argument, and the Council set out evidence for its argument in its case report and appeal statement.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR

² W/4001105 – 66 Street End Lane, Sidlesham.