



Costs Decision

Site visit made on 14 June 2021

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2021.

Appeal Ref: APP/P1940/W/20/3255597

Bullsland Farm, Bullsland Lane, Chorleywood, Rickmansworth, WD3 5BG

- 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 S Hayes for a partial award of costs against Three Rivers District Council.
 - The appeal was against the refusal of prior approval for prior Notification: Conversion of existing barn to the south to form three large dwelling houses with operational works to building and associated curtilage.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Examples of unreasonable behaviour by local planning authorities set out in the PPG include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council acted unreasonably in that it failed to follow well-established case law with reference to the Hibbitt¹ case, it failed to determine similar cases in a consistent manner and misinterpreted paragraph Q.1 (b)(i)(bb) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) .
5. The judgement in the Hibbitt case was that there is a difference between a conversion and a rebuild and that it is a matter of legitimate planning judgment as to where the line between the two is drawn.
6. The Officer's Report explained in detail why the Council considered the extent of works went beyond that which might be considered reasonable for a conversion and therefore constituted a new build. Direct reference was made to the Hibbitt case in its assessment. It cited the removal of existing walls, cladding, and the roof, taking the building back to its skeletal form and the

¹ Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

construction of new walls that would not follow the line of the original walls and a new roof which would not follow the line of the existing eaves. I concluded that the Council was correct in its assessment and that the proposal was not a conversion and therefore could not be considered permitted development under Schedule 2, Part 3, Class Q of GPDO.

7. Regarding the inconsistency of decisions, the appellant referred to a scheme to convert the same building to 4 smaller dwellinghouses and a larger dwellinghouse. I do not have the details of that scheme, but it is clearly different to the appeal scheme of 3 larger dwelling houses and not therefore comparable.
8. I understand from the appellant's statement of case that the proposal subject to the appeal to which this application relates was a repeat application after prior approval was previously refused on 28 January 2020. If that is the case, it seems to me that the Council has acted consistently in determining similar cases.
9. In terms of the Council's interpretation of Q.1 (b)(i)(bb) of the GPDO which sets a 465 sqm limit on the cumulative floorspace of larger dwelling houses the Officers report explained its reasoning. It included in its floorspace calculation covered areas to the front and rear of the dwellings. The elevation drawings and 3D images show the roof extending beyond front and rear walls. It is set in above the north facing glass atrium but then extends out over the entrance doors. This approach seems consistent with an Inspector's approach in another appeal² referred to by the Council.
10. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the appellant's claim for costs fails.

P D Sedgwick

INSPECTOR

² Appeal Ref: APP/Z1510/W/19/3239635