



Costs Decision

Site visit made on 5 April 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2022

Costs application in relation to Appeal Ref: APP/T0355/W/21/3276034 3A Altwood Road, Maidenhead SL6 4PB

- 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 Neil Chadda of Nevo Partnership for a full award of costs against Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal to grant prior approval for development described as 'application for prior approval under Class M of Schedule 2 of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the change of use from A1 to C3 to create 6 no. dwellinghouses and building operations reasonably necessary to facilitate the conversion'.
-

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 only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council refused prior approval for the conversion of the retail unit to residential on the grounds that it failed to meet minimum internal floor space standards resulting in cramped conditions that would provide unsatisfactory living conditions for future occupants. The Council took the view this represented poor design.
4. The application for an award of costs is made on the basis that the Council has behaved unreasonably with respect to the substance of the matter under appeal in unreasonably refusing the planning application and defending the appeal.
5. Specifically, the applicant considers that the Council has sought to prematurely apply a requirement for the proposed dwellings to meet the nationally described space standards (the NDSS). This is on the basis that under the transitional arrangements contained within the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 that for all applications submitted prior to 6 April 2021, when the requirement comes into force, are to be treated as if the amendment order has not been made.

6. I have concluded that compliance with the NDSS cannot be required in relation to this appeal. Nevertheless, I have found that design is not limited to external appearance and a consideration of the internal design of the proposal is a valid approach. In this matter, I consider that the NDSS can be used as evidence to support the planning judgment to be made.
7. The applicant did supply 2 appeals¹ in Watford to support his position that Class M is not subject to any minimum floor areas. However, as I noted within my decision, the point being made in these appeals related to whether or not the proposed units would constitute a dwellinghouse rather than whether design could encompass internal arrangements.
8. The Council did not submit a statement of case for the appeal. However, in its rebuttal to the costs application, it has referred to an appeal decision² in Holsworthy for a scheme to convert an agricultural building to a dwellinghouse under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
9. In that scheme, the Inspector took the view that, even though the minimum size of a dwelling is not specifically restricted within Class Q, the design of a dwellinghouse includes its internal layout and its overall size. Whilst I appreciate that this related to a different Class of development, Class Q rather than Class M, I consider the principles are the same and lend weight to the fact that the Council in adopting this approach in the appeal scheme before me has not behaved unreasonably.
10. There is no evidence before me to support the applicant's view that this decision is an outlier as suggested.
11. It therefore follows that I do not consider that the Council has behaved unreasonably in refusing the prior approval on a design matter in relation to internal arrangements.
12. As I have found that the Council has not behaved unreasonably in reaching the decision it did, therefore I do not consider that the appeal could have been avoided.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Rachael Pipkin

INSPECTOR

¹ APP/Y1945/W/18/3197021 and APP/Y1945/W/19/3231016

² APP/W1145/W/18/3197482