
Costs Decision

Site visit made on 4 July 2023

by S Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Costs application in relation to Appeal Ref: APP/K0425/W/22/3294482 Silvretta Barn, Lower Icknield Way, Longwick HP27 9SA

- 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 Matthew Gomme for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of a prior notification application for the partial change of use and conversion of existing agricultural barn building to create 1 x 3 bed dwellinghouse and associated operational development.
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Decision

1. The application for 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. The appellant considers the Council behaved unreasonably as a result of its refusal of the application, for three reasons. Firstly, the appellant considers that whether the building 'in its current form is not capable of functioning as a dwelling', as set out in the reason for refusal, is not a relevant consideration given the requirements of the General Permitted Development Order 2015. Secondly, the appellant considers the Council failed to properly consider the findings of the Structural Report, and did not justify its conclusion that the extent of the building works proposed to create the dwelling amounts to substantial reconstruction of the building. Thirdly, the appellant notes the Council relies on the cumulative effect of the works, rather than the consideration of individual elements of it, to justify its reasoning that what is proposed exceeds what is reasonably necessary to convert the building to a dwellinghouse and therefore exceed the limitations of Class Q (b).
4. In response, the Council considers that the reason for refusal should be considered as a whole and that it set out its reasoning in detail in the officer report and appeal statement. Whether or not the development complies with Class Q is a matter of planning judgement. Furthermore, that Council refutes the argument that it failed to take into account the Structural Report.

5. The *Hibbitt*¹ case, referred to in my decision letter, sets out the distinction between a conversion and new or 'fresh' build and suggests that where the difference lies, and thereby whether the proposal complies with Class Q, is a matter of planning judgment.
6. From all I have read, it is clear that the Council's reason for refusal is intended to be considered as a whole. I am unconvinced that Council considered the functionality of the building as a dwelling to be a reason for refusal in itself, particularly given the Council's reasoning that the proposed works amounted to more than was reasonably necessary to enable the conversion of the building, a matter clearly set out and reasoned within the Officer report and appeal statement. The Structural report was referred to and I note the Council's concern about the lack of reference to Class Q in terms of whether or not the proposed works were unusual. Other concerns are also clearly articulated. The Council legitimately considered the various elements of the proposal to lead them to their conclusion on the proposal as a whole. Whilst I have disagreed with the Council's conclusion, I am unconvinced by the appellant's argument that the Council failed to substantiate its reason for refusal. Accordingly, I find that the Council have not acted unreasonably.
7. It seems to me that the matter is a fundamental disagreement between the parties which could have only been dealt with by an appeal. Accordingly, there has been no wasted expense in the appeal process.
8. Therefore, having carefully considered the views of the parties, I conclude that unreasonable behaviour resulting in unnecessary expense as described in the PPG has not been demonstrated and an award of costs is not therefore justified. On that basis, taking into account everything I have read, the application for costs is refused.

S. Ashworth

INSPECTOR

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