



Costs Decision

Site visit made on 25 June 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2024

Costs application in relation to Appeal Ref: APP/M1005/W/24/3339687 Nether House Farm, Hillcliff Lane, Turnditch, Belper, Derbyshire DE56 2EA

- 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 Mitchell Shore and Miss Katie Weeds for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal to determine if prior approval is required for a proposed residential conversion of existing agricultural building (Building Three).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 appellants consider that the Council behaved unreasonably for a number of reasons. They consider that the Council failed to substantiate the reasons that it deemed the scheme to not meet the requirements of Class Q (a) and that the Officer's report demonstrates confusion regarding the proposed curtilage. The appellants also consider that the Council failed to substantiate that the level of demolition would be excessive and beyond what would be reasonably necessary to carry out the building operations allowed under Class Q. The appellants consider that the Officer report provides incorrect and misleading information, disregards the structural engineer's report, and provides no justification in line with planning law to substantiate the claim that the proposal is not suitable for conversion.
4. From the evidence before me, I consider that the Council did substantiate the reasons that it deemed the scheme not to meet the requirements of Class Q (a) and the reasons why it considered the level of demolition to be excessive. Whether or not development complies with Class Q is often a matter of planning judgement. The Council's reasoning regarding the curtilage and its thoughts on the level of demolition were clearly set out and reasoned within the Officer's report.
5. It is my view that the Council considered the evidence before it in coming to its decision and clearly articulated its reasoning regarding the volume of the building to be demolished and which parts were to be retained. The Council came to a reasoned decision with specific reference to the proposed works and the relevant parts and tests of the GPDO. Moreover, I do not agree that the

Council disregarded the structural engineers report, but instead sought to question aspects of it.

6. The appellants note that this was the third attempt at achieving prior approval, and the Council has failed to discuss or provide guidance regarding the site, which would have allowed the appellants to submit a scheme which addressed its concerns. Furthermore, the Council refused an invitation to site with the agent to discuss the proposals and the level of information submitted and demands on the appellant far exceeded what could be perceived as a "light-touch process".
7. However, there can be no certainty that the outcome of the application would have been different had the Council held further discussions prior to making its determination. It is entirely usual and not unreasonable for Councils to seek further information, as in this case, to assist in making a full and proper assessment of a proposal. I consider that the Council has exercised its duty to determine planning applications in a reasonable manner.
8. In exercising its planning judgement, I therefore consider that the Council legitimately considered the various elements of the proposal on the evidence before it to lead it to its conclusion. Whilst I have disagreed with the Council's conclusion, I am not convinced that its reasoning was misleading or unsubstantiated. Accordingly, I find that the Council have not acted unreasonably.
9. Therefore, having carefully considered the views of the parties, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L C Hughes

INSPECTOR