



Costs Decision

Hearing held on 2 October 2024

Site visit made on 2 October 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2024

Costs application in relation to Appeal Ref: APP/F1610/W/24/3346869 Scrubditch Farm, North Cerney, Cirencester, Gloucestershire GL7 7DZ

- 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 and Mrs France for a full award of costs against Cotswold District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the conversion of former agricultural building to residential use.
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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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal. The applicants' claim for costs is made on the basis that the Council has prevented development that should clearly be permitted, that it provided vague, generalised and inaccurate assertions about the proposals impact on the Cotswold National Landscape (CNL), that it did not determine the subject appeal in a similar manner to other cases in the district, and that it acted contrary to well-established case law.
4. The Hibbitt judgement¹ relates to a Class Q permitted development² that is not the case with this proposal which requires planning permission. Therefore, whilst the judgement is helpful in providing guidance to determine the difference in works required for a conversion of an existing building and those of a new or re-build, the circumstances are not identical.
5. Even if a structural survey determines that a building is structurally sound, it is clear from the wording of Policy EC6(a) and its supporting text, that it does not negate the need to consider whether the proposed alterations are substantial.

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

² Permitted development as established by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Although the first reason for refusal does not make explicit reference to the Council's view that the proposal amounts to substantial alteration, it is clear from its officer report that was its position.

6. The matter of whether alterations such as new openings can be considered to be substantial, is not limited to whether they would affect the structural integrity of a building. This is a matter of planning judgement. In my decision I have found that the degree of alterations is finely balanced. Whilst I have ultimately agreed with the applicant on this point, there is nothing in the evidence before me to suggest that the Council's reasoning was irrational, confused or contrary to established case law.
7. The Council was clear in its officer report that there was no locational requirement within the development plan for buildings to be converted to be in an accessible location. Rather it deferred to paragraph 84 of the National Planning Policy Framework in relation to this matter. Moreover, the Council confirmed that its reference to the site being located within a Special Landscape Area was an error and did not seek to defend the appeal on this basis. It is clear from the officer report that the only landscape designation that was of concern was that of the CNL. The incorrect reference did not affect the outcome of the Council's determination.
8. There is no evidence before me that the Council is unqualified to deal with matters of landscape impact, which is likely to be a standard consideration for applications within the CNL. The Council clearly articulated its concerns regarding the impact of the proposal on the protected area within the officer report. Although I have not shared the Council's view, I am satisfied that it substantiated its position with regard to this matter.
9. The applicants provided several examples of similar proposals that were granted approval by the Council under the same policy context. I was furnished with some basic details including elevation plans and extracts from the officer reports. However, not all details including site location plans and full delegated or committee reports outlining the Council's full reasoning for the grant of permission have been supplied. As a result, it is not possible to draw accurate comparisons between the contexts and circumstances of those schemes and that which is before me. I am unable to conclude that the Council has unreasonably determined similar cases in an inconsistent manner.

Conclusion

10. The Council has demonstrated an analysis of the appeal site context, and the interpretation of local and national policy was not irrational. A reasonable exercise of planning judgement was demonstrated in the conclusions reached. Moreover, it has not been demonstrated that the Council deliberately sought to prevent development that should have been permitted. Instead, it highlights the difference of opinion between the parties in respect of the planning merits of the proposal.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Clowes

INSPECTOR