



Costs Decision

Site visit made on 9 September 2025

by **P Brennan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Costs application in relation to Appeal Ref: APP/J1860/W/25/3364410

Gray's Farm, Off Malvern Road, Powick WR2 4SP

- 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 P Gray for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of Prior Approval for the proposed change of use of an Agricultural Building to 2 Dwellinghouses (Class C3), and for building operations reasonably necessary for the conversion.
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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. The PPG states that a Council would be vulnerable to costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with national policy.
3. The costs application asserts that the Council unreasonably refused Prior Approval. The applicant asserts that the Council misapplied the *Hibbitt v SSCLG (2016) Judgement*, misinterpreted Class Q1, paragraph (j) (ii) with respect to partial demolition and failed to evidence its reason for refusal in its Statement of Case.

Misinterpretation and reliance on the Hibbitt v SSCLG (2016) Judgement

4. The Council correctly assessed the application for Prior Approval against the relevant criteria as laid out within the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). Where assessment of the criteria under Q1 (j) (i and ii) was undertaken, the Council addressed both (i) and (ii) under the same section of the report. Whilst the 'Hibbitt' judgement was referred to, this was in relation to its assessment of the building works proposed and whether they amounted to a rebuild, rather than the proposed demolition. As a result, the Council determined that the works proposed would not go beyond those reasonably necessary to convert the building. Where the Council subsequently continued to refer to Hibbitt in its statement of case and costs rebuttal, this was to provide further clarification on its reference. On this basis, the Council placed little to no reliance on the Hibbitt judgement in its conclusion to refuse the application and has not

therefore demonstrated unreasonable behaviour resulting in unnecessary or wasted expense.

Interpretation of Partial Demolition

5. The Council's reason for refusal wholly related to its interpretation of 'partial demolition reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i)'. Whilst the Officer report mentions the other two agricultural buildings proposed for demolition, it cites the removal of approximately 351.5sq.m of the existing agricultural building which it considered to be more than 'partial demolition.' This is acknowledged by the appellant in their statement of case which identifies that the reason for refusal relates to the application building's existing fabric. However, the Council clarified this within its comments with an acknowledgement that the demolition of the secondary buildings would not be reasonably necessary in relation to the main building's conversion, indicating that they had taken them into consideration.
6. Neither the PPG nor the Order provides a definition or an interpretation of 'partial demolition' or 'to the extent reasonably necessary to carry out building operations.' As such, this is a matter of judgement based on fact and degree associated with each application's individual set of circumstances. Whilst the submitted appeal decisions determined that 'partial demolition' amounted to all but complete demolition, the Council was entitled to apply its own judgement and form a different conclusion, based on the particular circumstances relating to the application.
7. I am satisfied that the Council has not misinterpreted the provisions of the Order or any associated case law. The Council's decision was based on the partial demolition of the main barn. Whether or not the further two buildings were included within the Council's assessment, the quantum of demolition that the Council ultimately referred to related to the barn to be converted and its interpretation of 'partial.' Reference to the demolition of the other two buildings, whilst leading to some confusion, furthered its case in relation to 'partial demolition' but did not form the basis of its decision and would not have altered the need for the appeal. Any reference to the two barns in the evidence was not significant overall and has therefore not resulted in unnecessary or wasted expense.

Defence of the appeal

8. Whilst the Council largely relies on the officer report in defence of the appeal, a short statement of case, expanding on the pertinent issue was submitted. I am satisfied that the reason for the refusal of prior approval was clear and that the Council provided adequate evidence to substantiate its reason for refusal. It was for the Council to decide what of the appellant's points it considered necessary to dispute or rebut; that it did not do so in all cases is not unreasonable in principle.

Conclusion

9. The Council has not acted unreasonably with respect to its consideration of the scheme. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

P Brennan (INSPECTOR)