
Costs Decision

Site visit made on 3 July 2014

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2014

Costs application in relation to Appeal Ref: APP/R3325/A/14/2214086 Merriott Social Club, 71 Lower Street, Merriott, Somerset, TA16 5NP

- 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 BA Jacobs on behalf of the Merriott Social Club for a full award of costs against Cornwall Council.
 - The appeal was made against the Council's decision to refuse planning permission for the provision of disabled access and emergency egress routes to Merriott Social Club, the erection of an extension for the provision of improved toilet facilities and associated change of use of land from agricultural use to sui generis (social club).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The application is determined having regard to the advice of the *Planning Practice Guidance* (the Guidance). The Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The Guidance provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of unreasonable behaviour cited in the Guidance is not determining similar cases in a consistent manner.
 4. In this respect, the Council granted planning permission during the course of the appeal for a virtually identical development as to the building works proposed. This strongly indicates inconsistency.
 5. The use made of the adjoining land, in conjunction with the use of the social club could, as I have found, be governed by condition to avoid unneighbourliness. The condition imposed in the appeal followed the form suggested by the Council in its representations.
 6. In granting permission for a similar development, and in refusing planning permission in relation to the use of land where a suitable condition would enable the development to go ahead, or continued as in this case, the Council put itself
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at risk of an award of costs in terms of the Circular. Moreover, the Council failed to substantiate either of its reasons for refusal, and this amounts to unreasonableness.

7. Furthermore, the Council was made aware of the appellant's application for costs, but did not respond. As advised in the Guidance, the appellant's case is strengthened if the opposing party does not offer evidence to counter the case for costs.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that South Somerset District Council shall pay to the Merriott Social Club the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
10. The appellants are now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G Powys Jones

INSPECTOR