



Costs Decision

Site visit made on 8 March 2011

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 29 March 2011

Costs application in relation to Appeal Ref: APP/R3325/A/10/2142112 2 Lower Orchard, Barrington, Ilminster TA19 0QZ

- 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 Anthony Turner for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of outline planning permission for what was described as the erection of a detached dwelling on land adjacent to No.2 Lower Orchard; outline application relating to access, landscaping and layout; appearance and scale subject to reserved matters.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. Circular 03/2009: *Costs Awards in Appeals and Other Planning Proceedings* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. There has been and remains a significant difference between the parties over the precise location of the development area boundary for Barrington, and the relationship of the proposal to it.
4. In simple terms, the suggestion made on behalf of the appellant is that the Council has been incorrect to assert that the proposal straddles the development boundary, has wrongly applied policies in the development plan as a consequence, and has advanced reasons for refusal that do not stand up to scrutiny.
5. Moreover, it is suggested that in the light of the Council's conduct, an application to establish the principle of development on the site was the only way forward and that the failure of the Council to address and resolve the matters raised, before and during their handling of the application, has led to an unnecessary appeal.
6. In my parallel appeal decision, I note that it is not possible to be definitive about the development boundary on the basis of the conflicting information put forward and in any event, as a previous Inspector concluded, it is a matter of limited significance in relation to an assessment of the impact of the proposal on the character and appearance of the area.

7. In general terms, the proper definition of a development boundary must be a matter for the relevant local planning authority. In that context, it is reasonable to expect some certainty from the Council. The appellant may not agree with the Council's view, and I cannot be definitive about whether the Council's view is correct, but the reasons for refusal advanced by the Council are not inconsistent with their contention that the proposal straddles the defined development boundary.
8. In any event, neither the principle of development, nor the impact of the proposal on the character and appearance of the area, turns wholly on the position of the development boundary. The form and arrangement of existing dwellings in the cul-de-sac, and Barrington as a whole, are much more important considerations. With that in mind, my parallel appeal decision reflects many of the concerns raised by the Council's in the Officer Report and the relevant reasons for refusal about the incongruity of the proposal and the harmful impact it would have on the character and appearance of the area.
9. In that overall context, while I do not share the Council's views about encroachment into the countryside, it cannot be concluded that the Council has wrongly applied policy or failed to substantiate their reasons for refusal. On that basis, the appeal was not unnecessary.
10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not been demonstrated.

Paul Griffiths

INSPECTOR