



Costs Decision

Site visit made on 7 June 2011

by John Wilde C.Eng M.I.C.E.

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

Decision date: 22 June 2011

Costs application in relation to Appeal Ref: APP/R3325/A/11/2144772 Breach Furlong Barn, Breach Furlong Lane, High Ham, Langport, Somerset

- 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 the estate of Mrs M E B Thyer deceased for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the change of use and conversion of agricultural barn for use as single unit of holiday accommodation.
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Decision

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

Reasons

2. I have considered this application for costs in the light of Circular 03/09. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
3. Paragraph B15 of the Annex to Circular 03/09 advises that a planning authority are at risk of an award of costs against them if they prevent, inhibit or delay development which should reasonably be permitted, having regard to the development plan, national policy statements and any other material considerations.
4. Paragraph B16 of the same Annex advises that in appeal proceedings, planning authorities will be expected to produce evidence to substantiate each reason for refusal, and to show clearly why the development cannot be permitted. The Council produced two reasons for refusal, and I will deal with them in turn.
5. The first reason for refusal concerned the impact of the proposed development on the landscape character. In the officer report the Council's landscape officer comments that the proposed development would be a residential development in the countryside. He then states that there would be no intrinsic environmental value in supplanting pasture with domestic elements and that the proposed development would create an area of domestic land that would be at variance with the local settlement pattern, which he has previously noted to be linear to the roadside. This he considers would lead to a subtle erosion of landscape character.
6. Furthermore, whilst accepting, in his email of 20 September 2010, that the proposed development would not be harmful to visual impact, the landscape

officer nonetheless makes clear that there are both in-principle objections and concerns regarding landscape character issues. Whilst the Council accept the presence of the nearby allotments and horse keeping activities they do not accept the appellants' contention that the presence of these features gives the area a semi-domestic character, and I concur with this view.

7. I consider therefore that the Council have given substantive evidence to show clearly why the proposed development cannot be permitted. It follows that no unreasonable behaviour has occurred.
8. The second reason for refusal related to the impact of the proposed development on the character and appearance of the barn. The Council's statement makes clear that they consider that the extra and enlarged openings proposed for the barn, added to their regularity and the small size of the barn would result in a far more domesticated appearance than the existing rural aspect. To support this they point to their Barn Conversion Policy.
9. Once again I consider that the Council have given substantive evidence to show clearly why the proposed development cannot be permitted. It follows that no unreasonable behaviour has occurred in connection with this reason for refusal.

Conclusion

10. I have found that in this case, the Council have produced substantive evidence to support their position in respect of policy conflict. I therefore conclude that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/09, has not been demonstrated. An award of costs is not therefore justified.

John Wilde

Inspector