



Costs Decision

Site visit made on 13 September 2011

by Mike Robins MSc BSc(Hons) MRTPI

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

Decision date: 7 October 2011

Costs application in relation to Appeal Ref: APP/R3325/A/11/2156282 Acre Cottage, Stoney Lane, Curry Rivel, Langport, Somerset TA10 0HY

- 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 John Kitchen for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the erection of four no. dwellings and garages.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 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. This appeal relates to an outline application for four houses on a large garden plot. The Council's reasons for refusal referred to the scheme as failing to demonstrate that it would not be detrimental to the character and appearance of the locality, suggesting it represented overdevelopment which would be at odds with the established pattern.
4. The appellant submitted a cost application in writing citing B15, B16, B18, B20 and B21 of the Circular. In this it was suggested that the Council had acted unreasonably in refusing the planning application contrary to the advice of its professional officers, and in doing so failed to substantiate its reason for refusal giving undue weight to the local opposition to the scheme. Furthermore, as the submitted plan showing the layout was indicative, the Council should not have taken it into account. As such it is suggested that this unreasonable behaviour resulted in the unnecessary expense of pursuing an appeal that should not have been required.
5. The Council's written response maintained that although officers had originally recommended approval this was contrary to concerns raised by the Parish Council and local residents. The planning committee's decision, the Council suggested, followed discussion and submissions from parties and was based on a judgement of the form, pattern and density of dwellings in the area and took into account the representations of local people. This position was further substantiated in the Council's statement to the appeal which noted that the planning officer's recommendation was finely balanced.

6. The appeal site is within an area with a typical edge of village character, forming a transition between the more urban area and the countryside. The area has a large number of detached dwellings some of which have large plots. The subdivision of the largest plot into 5 smaller units, including the original property, requires a judgement to be made on the likely density and consequent impact of the scheme in terms of its relationship to nearby buildings and its contribution to the character of the area as a whole.
7. The Council's original officer report dealt with these matters, however, the committee reflected on the same matters and same policies but reached a different final conclusion. In particular I noted the Parish Council's position provided a well argued counterpoint to the original report. While the Council clearly acknowledged the level of public concern, I do not consider that they gave undue weight to that and am satisfied that an objective appraisal was made. Members are fully entitled to use their own judgement and experience.
8. That the Council's statement to this written representation appeal was brief does not detract from the fact that it set out the key concerns of Members. No particular weight was drawn or conclusions reached on the validity of each aspect, but this nonetheless clearly set out the basis of the committee's judgement on this appeal.
9. Paragraph B18 of Circular 03/2009 acknowledges that many appeals involve matters of judgement concerning the character and appearance of the area. This is one such example. Although I reached a different conclusion to the Council, I consider that it provided sufficient realistic and specific evidence about the proposed development and therefore adequately substantiated its reason for refusal.
10. While I note the appellant's reference to another appeal case, I do not have sufficient details of that case to establish whether any sort of precedent arises. In any case, each application and appeal must be considered on its own merits.
11. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Mike Robins

INSPECTOR