



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: 3 October 2011

**Costs application in relation to Appeal Ref: APP/R3325/A/11/2152382
Land to the rear of Robins, Ham Lane, Compton Dundon, Somerton,
Somerset TA11 6PQ**

- 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 Nick Studley 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 of an existing building to provide for holiday accommodation.
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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 a proposal to convert a garage and area of land to use as holiday accommodation. The site is within the countryside. The Council's reasons for refusal referred to the impact on the character of the area in relation to backland development and intensification of use in the countryside and also to loss of privacy and disturbance to occupiers of dwellings to the north of the site.
4. The appellant submitted a cost application in writing which set out that the Council had misdirected itself in relation to a Certificate of Lawful Use or Development granted on 13 August 2010¹. It was suggested that not only was part of the land wrongly excluded from the certificate, but that the conclusion that part of the site was in amenity use should have informed a positive conclusion from the Council. Furthermore it was claimed that the Council had referred to an un-adopted Supplementary Planning Document (SPD) and an incorrect policy in their conclusions.
5. The Council responded in writing refuting that there was any error in the findings of the certificate. They stated that the access was specifically excluded and that only part of the land was considered as having amenity use. Such amenity use, they suggested, is materially different from domestic use.
6. I consider that the Council properly considered the previous use of the site as confirmed by the certificate and in absence of a proven domestic use concluded

¹ 10/03203/COL

that the intensification of activity here would have a materially harmful impact on the countryside. As I have set out in my main decision, if the appellant was unsatisfied with the outcome of their application for a Certificate of Lawful Use or Development, then there was a route to challenge that.

7. A reference to Policy ST5 in the second reason for refusal does not make the overall conclusions unreasonable on this matter. The reason was clearly stated and the correct policy also referred to, and therefore, while its inclusion may have been in error, no unnecessary costs would have arisen. Furthermore, that the Conservation Officer's consultation response refers to a SPD in development does not make inclusion of those comments or consideration of their opinion unreasonable. The SPD has not been subsequently referred to or put forward in support of the reasons for refusal.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Mike Robins

INSPECTOR