



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 19/10/20

gan Joanne Burston, BSc MA MRTPI
AIPROW

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 5th November 2020

Costs Decision

Site visit made on 19/10/20

by Joanne Burston, BSc MA MRTPI
AIPROW

an Inspector appointed by the Welsh Ministers

Date: 5th November 2020

Costs application in relation to Appeal Ref: APP/E6840/A/20/3257266

Site address: Worthybrook Farm, Wonastow, Monmouth, Monmouthshire, NP25 3DJ

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, section 78, section 322C and Schedule 6.
 - The application is made by Mr A Bevan for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal of planning permission for alterations and conversion of existing agricultural buildings to form two-bedroom dwelling unit with ancillary works.
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Decision

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

Reasons

2. The Annex at Section 12 of the Development Management Manual, Award of Costs (the guidance) advises at paragraph 1.2 that "*Parties are expected to meet their own costs. An appellant or applicant is not awarded costs simply because their appeal or application succeeds and similarly, a local planning authority is not awarded their costs because their position or decision is upheld. An award of costs may only be made where one party has behaved unreasonably, and that unreasonable behaviour has led other parties to incur unnecessary or wasted expense.*" The guidance provides examples of circumstances which may lead to an award of costs against a Council. Awards may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
 3. The appellant refers to the inconsistency of the Council when applying the Monmouthshire Local Development Plan (LDP) Policy H4 and has supplied a number of previous planning decisions to demonstrate this.
 4. It has been established by case law that previous planning decisions are capable of being material considerations, meaning that they may need to be taken into account by those determining subsequent applications for permission. However, Councils are not bound by its earlier decisions, but in departing from them must provide clear reasons.
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5. As I read in the applicant's '*Design and Access Statement*¹', the issue of consistency in decision making had been raised, although at this stage no specific decisions were referenced. Generally greater weight is attached to issues supported by evidence rather than solely by assertion. From the evidence before me it was not until the applicant submitted his 'Statement of Case' that explicit case references were supplied.
6. The '*Officer Report*' sets out the matters taken into account by the Council. Whilst no reference is made to other similar decisions, the Report does state the specific individual circumstances of the case which would distinguish it from other examples, such as the location, condition, design and layout of the existing buildings. In any event, the Officer Report is not addressed to the world at large but to council members who, by virtue of that membership, may be expected to have substantial local and background knowledge of other similar cases.
7. I accept that it may have been useful to the applicant if there had been a discussion of other barn conversion cases so that it was clear how the decision was reached, particularly as the issue of 'consistency' was raised by the applicant. Nonetheless, this is not the end of the matter. For costs to be awarded the unreasonable behaviour of the Council must result in unnecessary or wasted expense.
8. It will be seen from my decision that I agree with the Council's refusal. I find that the decision was a matter of judgement based on the evidence before the Council and they took into account the development plan and guidance within the Council's Supplementary Planning Guidance. I am satisfied that the Council adequately applied the relevant policies and substantiated its reason for refusal.
9. The reference to specific cases were subsequently responded to by the Council in its '*Response to the Cost Application*'. The review, albeit brief, provided sufficient evidence to indicate to me that the Council has been consistently applying LDP policies and therefore I consider the expenses incurred in submitting the appeal were reasonably expected and necessary.

Conclusion

10. Having considered the matters above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the guidance, has not been demonstrated, and therefore the application for an award of costs is refused.

Joanne Burston

INSPECTOR

¹ paragraph 4.2