
Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 28/08/18

gan Paul Selby BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07/09/2018

Costs Decision

Site visit made on 28/08/18

by Paul Selby BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 07/09/2018

Costs application in relation to Appeal Ref: APP/E6840/A/18/3203203

Site address: Beaulieu Barn, 25 The Kymin, Monmouth NP25 3SE

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 James Tuttle for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the proposed conversion of redundant barn to provide new dwelling without complying with conditions attached to planning permission Ref DC/2007/01144, dated 8 February 2008.
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Decision

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

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The costs application is made on substantive grounds. The applicant contends that development which should clearly have been permitted was prevented, citing in particular an example of unreasonable behaviour described in paragraph 3.11 (i) of the Annex, which identifies that the imposition of a condition that does not comply with the tests set out in WGC 016/2014 'The Use of Planning Conditions for Development Management' ('the Circular') would be unreasonable.
 4. Paragraph 3.8 of the Annex says that there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application where the proposal is not in accordance with relevant development plan policy and no material considerations indicate that permission should have been granted. For the reasons given in my decision letter, although I have found that conditions 1 and 2 are not necessary or reasonable, I have concluded that condition 3 complies with the tests set out in the Circular. The Council's refusal of the application was therefore not unreasonable insofar as it related to condition 3.
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5. The applicant contends that the Council failed to afford appropriate weight to material changes to the site's circumstances since the original conditions were imposed. I do not disagree with this view insofar as it relates to the recently-permitted two storey extension to the appeal building. Nonetheless, the weight to be attached to a particular consideration is a matter of judgement for the decision-maker. Whilst I disagree with the Council's conclusions in relation to conditions 1 and 2, it clearly took the relevant factors into account when coming to its decision. Its conclusions were also substantiated in relation to the relevant development plan policies and the tests in the Circular. The Council's written evidence during the appeal process has been precise and relevant to the case in hand.
6. I acknowledge that the applicant has had to seek professional advice to lodge the appeal. Nonetheless, as all three disputed conditions relate to visual impacts, the written evidence relating to conditions 1 and 2 is unlikely to have been notably more onerous or different in nature than would have been the case if the only condition in dispute was No 3. Consequently there is little evidence that the Council's actions have led to the applicant incurring unnecessary or wasted expense in the appeal process.
7. For the above reasons I conclude that neither a full or partial award of costs is justified in this case. The costs application is refused.

Paul Selby

INSPECTOR