



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 03/02/20

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.03.2020

Costs Decision

Site visit made on 03/02/20

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 17.03.2020

Costs application in relation to Appeal Ref: APP/E6840/A/19/3242539

Site address: Barn Conversion at 33 Kymin Road, 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 David Edge for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal of planning permission for the conversion of single storey barn to holiday let without complying with a condition attached to planning permission Ref DC/2012/01074, dated 19 September 2013.
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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. In summary, the appellant states that in this case the unreasonable actions of the Council have prevented development which should clearly be permitted, having regard to the development plan and its failure to take into account of other material considerations.
 4. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly identify what the Council considers to be harmful and refers to conflict with planning policy and other material considerations. The applicant's appeal submission was detailed with appendices providing supporting evidence.
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5. The Council have sought to substantiate the reasons for refusal via a statement of case which accompanies the officer report. In doing so, the extent to which the Council address the appeal submissions remains at their discretion when seeking to substantiate the reasons for refusal. Taking into account all of the circumstances, I consider that the Council was able to substantiate to a reasonable extent on the reasons why it considered the development was not acceptable.
6. I find the Council's approach of determining the planning application on the basis of Local Development Plan Policy and relevant material considerations to be reasonable. Whilst, the Council's Officer Report did not take into account the findings from a previous appeal decision¹, they made a judgement relative to the proposal before me in terms of the harm they perceived. Moreover, the Council's appeal statement made reference to the previous appeal decision and commented on why the decision was not comparable to the appeal now before me.
7. In terms of the consideration of Public Rights of Way, the Council identified various footpaths in the surrounding area. Whilst I somewhat agreed with the appellant in my substantive decision that views from the footpaths were limited, I also found that these views positively contributed towards the appreciation of the AONB landscape. Accordingly, the Council was not incorrect in identifying the footpaths, merely the weight they attached to the views from them, which was a matter of judgement.
8. The Council's appeal statement provides some degree of specific, reasoned, objective analysis of the schemes impact. Thus, as a matter of fact and degree, I am satisfied that the Council has provided sufficient evidence to substantiate its reason for refusal, and unreasonable behaviour has not been demonstrated in this regard.
9. I cannot conclude that an appeal was unnecessary in this case. The individual circumstances of the proposal necessitated assessment on its own merits given the subjectivity of issues in dispute and judgements involved. The applicant, therefore, did not suffer wasted expense in pursuing the appeal.

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 appeal reference: APP/E6840/A/18/3203203