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Miss F A Ward (The National Park Officer)
N Yorks Moors N P Authority
The Old Vicarage
Bondgate
Helmsley
York,
YO6 5BP

Your Ref: NYM4/024/0103F/PA
Our Ref: APP/W9500/A/01/1063086
Date: 7 August 2001

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MR R A KIRBY
SITE AT SYCARHAM BARM, HOOD LANE, CLOUGHTON, SCARBOROUGH, N YORKSHIRE,
YO13 0AT**

I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

Please note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly.

If you have any queries relating to the decision please send them to:

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Yours faithfully

A handwritten signature in black ink, appearing to read 'R J Sharples', written in a cursive style.

Mr R J Sharples

COVERDL2



Appeal Decision

Hearing held on 31 July 2001

by **J D Micklethwaite** BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Transport,
Local Government and the Regions

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Date 07 AUG 2001

Appeal Ref: APP/W9500/A/01/1063086

Sycarham Barn, Hood Lane, Cloughton, Scarborough.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr R A Kirby against the decision of North Yorkshire Moors National Park Authority.
- The application (Ref: NYM4/024/0103F/PA), dated 11 January 2001, was refused by notice dated 22 March 2001.
- The development proposed is the erection of a garage for 2 cars.

Summary of Decision: the appeal is dismissed.

Procedural Matters

1. At the Hearing an application for an award of costs was made by the appellant against the National Park Authority (NPA). This application is the subject of a separate Decision.

Planning Policy

2. The development plan for the area consists of the North Yorkshire County Structure Plan (Third Alteration) and the North York Moors Local Plan. These contain policies which give priority to the conservation of the landscape, in line with the purposes of national park designation and the guidance in PPG7.
3. The first reason for refusal refers to policy BC12 of the Local Plan which deals with the conversion of buildings outside settlements to residential use. The policy says that such conversions will normally be allowed where the building makes a significant visual contribution to the landscape and where the proposals satisfy various criteria. Criterion (1) requires that the building should normally be of sufficient size to allow conversion without the need for extension. The relevance of this policy is a matter of dispute between the main parties.
4. A Replacement Local Plan has reached the second deposit stage and contains a number of relevant policies. Policy BE14 is in practice a replacement for BC12 of the adopted plan and policies H8 and H9 deal respectively with extensions to dwellings and curtilage buildings. It is common ground that these are material considerations in this case, but there are important differences between the main parties about their interpretation and the respective weight which should be given to them.

Main Issue

5. In the light of this I consider that the main issue is the effect of the garage extension on the original building in the context of its contribution to the landscape of the National Park.
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Reasons

6. An important part of the appellant's case is that policy BC12 is not relevant here because the appeal proposal is for the building of a garage extension and not the conversion of an existing building. However, I agree with the NPA that the planning history of the site and the underlying purpose of policy BC12 must be taken into account.
7. Sycharham Barn is one of 3 dwellings in a former farmstead set in the open countryside about 1km to the north of Cloughton village. The principle of converting the traditional agricultural buildings into 2 dwellings was established by a planning permission granted in 1986. Full planning permission for the Sycharham Barn conversion was granted in 1990 and there appears to be no dispute that the details of this scheme were negotiated so as to retain as far as possible the original character of the building. The permission includes a condition to remove permitted development rights for extensions, alterations and new curtilage buildings.
8. I know that there is nothing in policy BC12 to explicitly prevent extensions to dwellings created through conversions. But, as explained in paragraph 3 above, one of the policy requirements is that a building should normally be of sufficient size to allow conversion without the need for extension. To my mind, there would be no point in this test if extensions were subsequently allowed without taking into account the reason for permitting the original conversion. Therefore, I consider that policy BC12 is relevant to this appeal.
9. For the same reason, the provisions of policy BE14 of the draft Replacement Local Plan are relevant. This policy sets out more specific tests for residential conversions and the appellant, whilst maintaining reservations on the principle of the relevance of the policy, argues that criterion (7) offers support for the appeal scheme. I agree with him that by implication this allows for insignificant extensions, and so a crucial issue is the determination of what constitutes a significant extension. This requires a subjective judgment, and it seems to me that a double garage with a cubic content of about 80 cu m would be a significant extension in the context of a policy framework intended to retain the original character of buildings. I note also that criterion (8) of the policy states specifically that new buildings to provide garaging will not be permitted, and in my view this applies to building new extensions as well as free standing buildings.
10. The appellant argues that the most relevant policies of the draft Replacement Local Plan are H8 and H9, which allow in principle the extension of dwellings and the erection of buildings within domestic curtilages. Since Sycharham Barn is a dwelling I agree that these are material considerations, but from what the NPA said at the Hearing, it seems that these policies are aimed at general housing rather than at dwellings in the countryside created by way of conversion. I see no reason to doubt this and so I consider that only limited weight should be given to these policies. In any event, though, I note that both H8 and H9 say that proposals should not detract from the character and appearance of the main dwelling.
11. In my opinion, therefore, most weight should be given to policies BC12 and BE14 and I consider that the appeal scheme would conflict with the fundamental purpose of retaining the character of traditional buildings. As mentioned in paragraph 9 above, the garage extension would be of a significant size and it would materially alter the relatively simple form and character of the building. I know that an existing stone wall would be incorporated to form most of a side wall of the garage, but most of it would be new construction.

12. The NPA rightly acknowledge that the garage extension would not be prominent in the wider landscape, although on my inspection I saw that parts of it would be visible from the track to the north. But paragraph 3.21 of PPG7 makes clear that the fact that development would be unobtrusive is not in itself a good argument for allowing it in the open countryside.
13. This leads on to the second reason for refusal and I agree with the appellant that there needs to be some substance to justify concerns about creating a precedent. But I have found that the appeal scheme would cause harm by detracting from the character of the traditional building, and there is no dispute about the pressures for the conversion of modest traditional buildings within the National Park. I accept that in planning control precedence does not apply in a deterministic way. However, I am satisfied that allowing this appeal would make it more difficult for the NPA to resist significant extensions to traditional buildings, which would undermine the aims of policies BC12 and BE14.
14. I understand the appellant's wish to have garaging facilities and I know that the proposals are supported by his neighbours and the Parish Council. However, I do not consider that these are sufficient to outweigh the objections I have found above.

Conclusions

15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

16. In exercise of the powers transferred to me, I dismiss the appeal.

Information

17. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of this decision.

J. D. Mitchell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R J Irving	Planning Consultant
Mr R A Kirby	The appellant

FOR THE NATIONAL PARK AUTHORITY:

Mr M Hill	Planning Officer with the Authority
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DOCUMENTS

Document	1	List of persons present at the Hearing.
Document	2	Letter of notification of the Hearing.
Document	3	Response from Cloughton Parish Council.
Document	4	Appendices to Mr Irving's statement.
Document	5	Appendices to the Authority's statement.

PLANS

Plan	A	Site location plan.
Plan	B	Plans and elevations of the proposed garage (Ref No 200).
Plan	C	Front elevation of the proposed garage.



Costs Decision

Hearing held on 31 July 2001

by **J D Micklethwaite BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Transport,
Local Government and the Regions

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Date

07 AUG 2001

Costs application in relation to Appeal Ref: APP/W9500/A/01/1063086 Sycarham Barn, Hood Lane, Cloughton, Scarborough.

- 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 R A Kirby for a full award of costs against the North Yorkshire Moors National Park Authority.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of a garage for 2 cars.

Summary of Decision: the application fails and no award of costs is made.

The Submissions for Mr Kirby

1. The National Park Authority (NPA) took the wrong policies into account. In particular, they relied on policy BC12 of the adopted Local Plan, but this deals with conversions whilst the appeal proposal is for the building of a new extension. They ignored the relevant local policies which are H8 and H9 of the draft replacement Local Plan. These allow extensions to dwellings and the erection of curtilage buildings subject to certain criteria being met. The appeal scheme satisfies these.
2. Therefore, the NPA acted unreasonably in refusing planning permission thereby causing the unnecessary expense of the appeal.

The Response by the National Park Authority

3. Sycarham Barn is a dwelling created by the conversion of a traditional agricultural building. There is an ongoing need to retain the original character of such buildings for the contribution they make to the landscape of the National Park. Therefore, policy BC12 has continuing relevance in the case of dwellings created by conversions. On the other hand, policies H8 and H9 are aimed at general housing. The NPA's decision was based on the correct application of the policies.

Conclusions

4. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
 5. I have no doubt that that the NPA's decision was based on policy BC12 and its successor in the draft replacement Local Plan (policy BE14). But I am satisfied that these are the most relevant local policies, notwithstanding the fact that the appeal proposal is for an extension and not a conversion. There would be little point in carefully controlling the conversion of
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traditional buildings in order to retain their character if subsequent proposals for extensions were dealt with in accordance with a less rigorous policy stance. I accept that policies H8 and H9 are material considerations, but I consider that they should carry much less weight than policies BC12 and BE14 in the case of dwellings created by conversions.

6. I conclude, therefore, that the NPA did not unreasonably refuse planning permission and that an award of costs is not justified.

Formal Decision

7. In exercise of the powers transferred to me, I refuse the application for an award of costs.



INSPECTOR