

Costs Decision

Site visit made on 13 September 2016

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an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 November 2016

Costs application in relation to Appeal Refs: APP/Q9495/C/16/3147950 & 3147951 and APP/Q9495/W/16/3147813

Land at Chapel Ridding, Patterdale Road, Windermere LA23 1NL

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs A Towler for an award of costs against the Lake District National Park Authority.
 - The appeals were against an enforcement notice alleging the erection of three buildings and against the refusal of planning permission for buildings for timber working and storage.
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Decision

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

Reasons

2. National Planning Practice Guidance 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 or wasted expense in the appeal process.
3. The lawful use of the land for timber working and storage is not relevant to consideration of the costs application because the breach of planning control, and the development that is the subject of the planning appeal, is the erection of buildings on the land. Furthermore, the previous and continued importation of timber onto the land, which the Council does not dispute, is not a reason to conclude that the buildings are essential for the working and storage of that timber. In this regard and as stated in the appeal decision, the essential need for the buildings must be based on forestry carried out on the land and the importation of timber from elsewhere must be ancillary to the principle forestry use of the land. The Council has not acted unreasonably and the Appellants have not therefore incurred unnecessary or wasted expense. The costs application thus fails.

John Braithwaite

Inspector
