
Costs Decision

Site visit made on 1 November 2016

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 28 November 2016

Costs application in relation to Appeal Ref: APP/W9500/W/16/3151512 Land off Quarry Lane, Osmotherley DL6 3AL

- 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 the North York Moors National Park Authority for a full award of costs against Mr Stephen Kelly.
 - The appeal was against the refusal of planning permission for a development stated on the application form to be "To erect a single new dwelling with enclosed garage/workshop area with additional water tank detail to supply the proposed property. The proposed property is to be a sustainable built, echo, earth sheltered property which will be built on a brown field site inside a disused quarry using new techniques and recycled materials".
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 application relies on the assertion that the appeal is clearly contrary to national planning policies and the policies of the Development Plan. Furthermore, the Authority state that the appellant has been advised of this during pre-application negotiations on the current proposal and as part of a refusal for planning permission for a previous proposal on the site.
 4. However, whilst I have dismissed the appeal and agreed with the Authority in relation to the conflicts with planning policy in my appeal decision, I consider that the appellant has taken a positive approach in attempting to address the concerns of the Authority. Furthermore, the appellant has identified particular issues such as brownfield land or the innovative nature of the development which he considers should be balanced in favour of the proposal. Again, I have agreed with the Authority that these matters are not of sufficient weight to allow the appeal, however I consider that the appellant has not behaved unreasonably in exploring these matters.
 5. Due to the relatively extensive and complex range of issues involved in the proposal, and the potential mitigating factors, I do not consider that the appellant has behaved unreasonably in testing this matter at appeal.
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6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR