
Costs Decisions 2

Site visit made on 29 November 2016

by W Fabian BA Hons Dip Arch RIBA IHBC

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

Decision date: 06 January 2017

Costs application in relation to Appeal Ref: APP/M0933/W/16/3153222 Dalesgarth, Mascalles, Ulverston, Cumbria LA12 0TQ

- 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 South Lakeland District Council for a partial award of costs against Mr Marc Charnley.
 - The appeal was against the refusal of planning permission for change of use of land to siting of lodges (caravans), parking, tarn, wildlife area, and package treatment plan (re-submission).
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance advises at paragraph 27 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. Although no specific paragraph is cited, the Council's claim is made in respect of the unreasonable behaviour of the appellant in failing to attend the accompanied site visit arranged for Tuesday 18 October 2016. Paragraph 52 of the Guidance lists the types of behaviours that may give rise to a procedural award against an appellant. These include failing to attend or be represented at a site visit without good reason.
4. The Council's administrative offices are at some distance from the site and the appellant's failure to attend resulted in the need to re-arrange the site visit, resulting in the Council incurring the wasted expense associated with its planning officer's time taken to attend the aborted site visit, with the associated travel costs.
5. However, in the weeks prior to the event the appellant had made engaged in ongoing discussions with the Planning Inspectorate, both by telephone and email concerning whether the appeal should be conducted by site visit or hearing and regarding the necessary specialist qualifications of the appointed inspector. During the course of these communications the appellant was under the impression that the scheduled event would be rearranged. Non-attendance at the site visit was due to this misapprehension.

6. Accordingly, in these circumstances the failure to attend was not without good reason.
7. As such I find that the application for an award of costs is not justified and should be refused.

Wenda Fabian

Inspector