

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: 9 January 2017

Costs application in relation to Appeal Ref: APP/Q9495/W/16/3143142 Broad Oaks, Bridge Lane, Troutbeck Bridge, Ambleside LA23 1LA

- 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 Ms Tracey Robinson for an award of costs against Lake District National Park Authority.
 - The appeal was against refusal of planning permission for creation of hardstanding within hotel grounds for disabled access (retrospective).
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
 3. The Equality Act 2010 is not, as suggested by the Appellant's Agent, "...afforded enormous (sic) weight in the Courts". It is, however, a significant material consideration but one which does not outweigh other legislation such as the Town and Country Planning Act 1990. The delegated report makes reference to the needs of disabled people, as acknowledged by the Agent, but does not, as he suggests, include the comment "...this [the needs of disabled people] cannot be given any weight". The Authority, whilst not referring to it directly, has had regard and given weight to the provisions of the Equality Act 2010 in their determination of the application and in its appeal statements.
 4. The appeal land was included within the 'red line' boundary of a previous application for development at Broad Oaks but this does not necessarily indicate that the land is in C1 'Hotel' use. Whether it is, or is in agricultural or any other use is not, in any event, relevant to consideration of the appeal, and was not relevant to consideration of the application. In this regard the application was refused, principally, because of the effect of the development on the landscape. There is no evidence to indicate that the application was treated any differently to other proposals elsewhere, including those promoted by the Authority, or that the Authority determined the application other than on its own merits.
 5. The Authority refused the application before receiving the results of a speed survey and before the Highway Authority revised their recommended visibility splays at the site access. The Appellant maintains that the visibility splays can be achieved and that the Highway Authority, by not opposing a plan submitted to
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them to that effect, has therefore withdrawn their objection. But the Highway Authority is only a statutory consultee, has not formally withdrawn its original objection and has only not 'opposed' the amended visibility splays, and the Authority is not bound by their advice. There was therefore no reason for the Authority to withdraw the highway safety reason for refusal or for this matter not to be referred to in their appeal statement.

6. Taking all the aforementioned factors into account the Authority has not acted unreasonably and the Appellant has not therefore incurred unnecessary expense. The claim for costs thus fails.

John Braithwaite

Inspector