
Costs Decisions

Site visit made on 30 January 2017

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 7 February 2017

Costs application in relation to Appeal A: APP/Q9495/C/16/3158556 Land at Denton Hill, Matterdale, Penrith, Cumbria, CA11 0LE

- 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 David Garner for a full award of costs against the Lake District National Park Authority.
 - The appeal was against an enforcement notice alleging: Without planning permission operational development consisting of building operations to the north east wall of the stable building, which materially affects the external appearance of the building.
 - The requirements of the notice are to permanently remove the concrete blocks from the north east wall of the stable building on the land.
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Costs application in relation to Appeal B: APP/Q9495/C/16/3158555 Land at Denton Hill, Matterdale, Penrith, Cumbria, CA11 0LE

- 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 David Garner for a full award of costs against the Lake District National Park Authority.
 - The appeal was against an enforcement notice alleging: Without planning permission the material change of use of land for the siting of a caravan used for residential accommodation.
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Appeal A Decision

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

Appeal B Decision

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

Reasons

3. An award of costs may be made where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. The Appellant suggests that the Council's behaviour is unreasonable in that it has used its discretionary enforcement powers disproportionately contrary to the Planning Practice Guidance¹ and should have discussed alternative ways of addressing its concerns.
5. Whilst the Appellant proposes lesser steps to overcome the breaches of planning control and a longer compliance period to undertake them, these

¹ ID: 17b-003-20140306

steps relate to a programme of works connected to an outline application for a dwelling, for which there is no certainty of gaining planning permission. Even if planning permission were granted, given that it would only be in outline, there would be a lengthy delay before works commenced, as indicated in the Appellant's programme. In the meantime, the harm caused by the breaches would continue. This is not in the public interest and not a viable option.

6. The Appellant submits that the Council has not properly assessed the situation. However, the e-mail exchanges and other submitted evidence suggest that the Council has taken all relevant matters into account and acted in an appropriate manner.
7. In conclusion I do not find that the Council has acted unreasonably and, therefore, the Appellant's applications are refused.

Elizabeth C Ord

Inspector
