



Costs Decision

Site visit made on 27 June 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 1 August 2017

Costs application in relation to Appeal Ref: APP/J9497/W/17/3170757 Foxlands, Ash Park Farm, Willey Lane, Sticklepath EX20 2NG

- 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 Mr & Mrs Mallett for a full award of costs against Dartmoor National Park Authority.
 - The appeal was against the grant subject to conditions of planning permission for the construction of extension and associated works. .
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance ("the 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. Furthermore, local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by imposing a condition that is not necessary or reasonable.
3. A number of conditions were imposed on the planning permission with conditions 2 and 3 being challenged as part of the appeal. In respect of condition 2, my decision makes clear that I consider a condition which seeks to restrict internal alterations which do not constitute development as neither necessary nor reasonable.
4. Furthermore, as part of the appeal the Council accepted that the wording of condition 3 was not sufficiently precise and, as such, would not comply with the guidance set out in the National Planning Policy Framework. In view of the fact that the appellant had proposed an entirely reasonable form of wording and the Council had indicated that the conditions imposed would be similar to those suggested by the appellant, I find the imposition of this broad condition was also unreasonable.
5. It appears to me that seeking to restrict internal alterations which do not constitute development and imposing a condition restricting permitted development rights which is insufficiently precise constitutes the type of unreasonable behaviour that the costs regime is designed to discourage. Furthermore, it has resulted in an unnecessary waste of expenditure on the part of the appellant.

6. Accordingly, I find that the Council has acted unreasonably which has resulted in wasted expenditure. I therefore conclude that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dartmoor National Park Authority shall pay to Mr & Mrs Mallett, the costs of the appeal proceedings described in the heading of this decision.
8. The applicants are now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Rory Cridland

INSPECTOR