
Costs Decision

Site visit made on 26 June 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date:

Costs application in relation to Appeal Ref: APP/W9500/W/17/3171625 land to the south of Wyke Lodge, Hodgson Hill, Staintondale, North Yorks

- 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 Keith Dobbie for a full award of costs against North York Moors National Park.
 - The appeal was against the refusal of planning permission for the change of use of land from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home.
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Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The Guidance states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through unavoidable delay.
4. Examples of behaviour which may lead to an award of costs against the local planning authority are also set out in the Guidance. These include failure to produce evidence to substantiate each reason for refusal on appeal. The appellant considers that there is an absence of technical evidence and objective analysis to justify the reason for refusal.
5. The Authority argues that it made a decision based on the information submitted with the planning application and having regard to the fallback position. It found the proposal to amount to an unacceptable intensification in the use of the site. The minutes from the planning committee meeting refer to the increase in the days of occupation and change in nature of the use compared to that allowed under the Certificate of Lawfulness.
6. The appellant has clarified through the appeal that the cabin would be used by the appellant or members of his family only (and that it would not be made available to anyone else, including friends by invitation or members of the public). However, this was not clear at the time of Members' consideration of the planning application. Based on the information previously provided by the

- appellant, Members understood that the cabin was also intended for use by friends of the owner by invitation. In his final comments the appellant acknowledges that his previous written statement is ambiguous in this regard.
7. Notwithstanding this misunderstanding, there are other elements of the proposal that point to an intensification of the existing use. These are considered in the Authority's statement and also in my Appeal Decision where I acknowledge that the proposal would increase the number of days of occupation of the site and that these would no longer be limited to weekends only. I also accept that the proposal would result in the siting of a bigger unit with two bedrooms and two bathrooms.
 8. As set out in the my Appeal Decision, whilst I have found that there would be some very limited intensification of the use of the site as a result of the appeal scheme, I do not consider that any resultant increase in activity levels would be significant. Although Members came to a different view, the matter of whether the proposal constitutes an intensification of use that would be harmful to the character of the area requires the exercise of judgment. This is also true when it comes to assessing its visual impact. Members are entitled to come to a different view to Officers and are not bound by their recommendations.
 9. Members made their decision based on the submitted information, a site visit, representations from local residents and the Parish Council along with the views of the Authority's solicitor. What technical evidence is envisaged by the appellant to be necessary to support the Authority's case is not explained. In any event, I am satisfied that the Authority has adequately described what it considers to be the potential impacts of the proposal, and has substantiated the reason for refusal with some level of objective analysis and reference to the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies, The North York Moors National Park Management Plan and the Framework.
 10. As described in my Appeal Decision, whilst I do not agree with the concerns of Members in this case, I nevertheless consider that they had reasonable grounds to come to a different view to Officers. It is not unreasonable to refuse an application despite the lack of objections from statutory consultees. There are objections from the Parish Council and residents and a good deal of local concern. Overall, I have come to a different conclusion as to the overall acceptability of the scheme, based on the balancing of a number of planning factors, but am content that the Authority's reason for refusal stands up to scrutiny on the planning merits of the case.
 11. This being so, I am not convinced that the appeal could have been avoided, and overall am content that the Council has not prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
 12. I therefore conclude that the Council's behaviour has not been unreasonable and the appellants' costs in mounting the appeal were not unnecessarily incurred. Consequently, for the reasons given above, the application for a full award of costs is refused.

Elaine Worthington

INSPECTOR