



Costs Decision

Site visit made on 11 March 2021

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Costs application in relation to Appeal Ref: APP/Q9495/D/20/3264869 Calm Waters, Newby Bridge Road, Windermere LA23 3PR

- 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 S Lomax for a full award of costs against Lake District National Park Authority.
 - The appeal was against the refusal of planning permission for the erection of boat store.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The National Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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 process¹.
3. The Guidance states that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded².
4. The applicant submits that the Lake District National Park Authority (the NPA) acted unreasonably after the determination of the planning application in avoiding interaction with him and not providing guidance on how to progress the proposal. The applicant asserts that he has had to submit the appeal because the NPA will not interact with him.
5. The Planning Inspectorate's Procedural Guide, Planning Appeals- England advises that, if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. It goes on to state that, the local planning authority should be open to discussions on whether it is likely to view an amended scheme favourably³.
6. I accept that, in this instance, the NPA were not 'open to discussions' on any changes to the proposal. However, it is evident that, at that time, the NPA was experiencing staffing issues during the height of the Covid-19 pandemic which,

¹ National Planning Practice Guidance, Paragraph: 030 Reference ID: 16-030-20140306.

² National Planning Practice Guidance, Paragraph: 033 Reference ID: 16-033-20140306.

³ Annexe M, Procedural Guide Planning Appeals – England. February 2021. The Planning Inspectorate.

understandably, limited the service it was able to offer. Furthermore, the ramifications of the NPA's inability to provide general advice, pre-application advice or discuss applications was not specific to the applicant, but applied to everyone.

7. Whilst additional advice from the NPA may have provided more comfort to the applicant prior to making any revisions to the proposal, the officer report and decision notice adequately highlighted the main issues as to why the appearance of the proposed boat store was not acceptable. This information could have guided any amendments by the applicant.
8. Moreover, I am mindful that the applicant chose to submit an appeal rather than amending the proposal and resubmitting the application. Resubmitting a revised application to the NPA would not have incurred a fee if made within 12 months of the date of the decision notice. It would also have potentially avoided an appeal and the associated expense incurred in its preparation.
9. For all of these reasons, I am not persuaded that the failure of the NPA to interact with the applicant following the refusal of the application constitutes unreasonable behaviour. Consequently, there can be no question that the applicant has incurred unnecessary or wasted expense in the appeal process.

Conclusion

10. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and thus a full award of costs is not justified.

F Cullen

INSPECTOR