
Costs Decision

Site visit made on 22 March 2021

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 6th April 2021

Costs application in relation to Appeal Ref: APP/M9496/W/20/3260769 Barn opposite Lead Ore House, Winster, Matlock DE4 2DR

- 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 Wild for a full award of costs against Peak District National Park Authority.
 - The appeal was against the refusal of planning permission for the change of use from agricultural building to holiday cottage.
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Decision

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

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs is made on substantive grounds. It is highlighted that the Committee of the National Park Authority determining the application decided not to accept the recommendations of its Officers to grant permission. It is argued that members have prevented and delayed development which should clearly be permitted having regard to the development plan, national policy and any other material considerations. The applicant also claims that the National Park Authority has failed to substantiate the reason for refusal on appeal, has relied on vague, generalised and inaccurate assertions about the proposal's impact, which are unsupported by objective analysis, has refused the application on grounds capable of being dealt with by condition, and have not dealt with similar cases in a consistent manner. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
4. Whilst the Committee of the National Park Authority responsible for determining planning applications is not required to accept the recommendations of its Officers, in circumstances where the professional advice of Officers is not followed, it is reasonable to expect the authority to be able to produce relevant evidence on appeal to support the decision.
5. The application had a single reason for refusal which relates to the impact the proposal would have on the character and appearance of the barn and on the character of the landscape. The reason for refusal clearly sets out the

development plan policies and the parts of the *National Planning Policy Framework* to which the National Park Authority considered the scheme would be contrary.

6. As detailed in my appeal decision, I have found that, on balance, the appeal proposal would be acceptable in terms of its impact on the character and appearance of the host property and on the surrounding landscape. However, in terms of character and appearance, consideration of planning applications and appeals can involve matters that are finely balanced and are primarily a matter of judgement. Where issues are finely balanced it is not unreasonable for the National Park Authority to give different weight to the material considerations and the views of local people than its Officers had.
7. Moreover, I consider that in their appeal statement the National Park Authority has substantiated the reasons why it considers the proposal would be detrimental in this regard. The statement highlights the ways that the proposal would lead to the domestication of the site, and that given the very open nature of the site how this would be harmful to the agricultural character of the barn and the area. In addition, the reasoning given is specific to the site and its characteristics and is not just vague or generalised assertions.
8. Given the conclusions of the members, even though Officers found the proposal would not conflict with national and local policies, it is not unreasonable that the members decided that it would be contrary to them.
9. I note the applicant's comments regarding the conversion of another field barn a short distance to the south of the appeal site. However, that barn was converted to a dwelling to meet local needs not holiday accommodation and so would have been judged against different policies with different criteria than those which apply to the appeal scheme. Moreover, as there are more trees around that site, it is less open. As such, it does not represent a direct parallel to the appeal scheme, and it is not necessarily unreasonable for the applications to be determined in a different manner.
10. It is also argued by the applicant that no explanation has been given as to why in this case the level of domestication was sufficient for the proposal to be refused but other similar cases have been approved. However, as set out in the National Park Authority's statement their considerations involved not only the level of domestication but how the barn is integrated into the surrounding agricultural landscape, and the openness and visibility of the site. Such factors are unique to each site. Thus, it does not mean that the Authority has necessarily been inconsistent in its decision making in refusing this application when other barn conversions have been considered acceptable.
11. It is suggested that conditions would have been sufficient to address the Authority's concerns relating to the harm that could arise from domestication. The Officer's report indicates that conditions can be used to control some matters in this respect. However, the Authority's appeal statement sets out that their concerns over the domestication of the site involves other matters such as the creation of a parking area and domestic curtilage and the movement of vehicles to and from the site. As these are a necessary part of the proposal, they could not be controlled by conditions. As such, the use of conditions would not have resulted in the appeal being avoided altogether.

12. In conclusion, although in this case I have found against the National Park Authority, I am satisfied that they have met their obligation to give proper consideration to the planning application and have justified their approach. Whilst the appellant may not agree with the conclusions reached on various matters, or the weight given to the various material considerations, it does not necessarily follow that the National Park Authority has acted unreasonably in coming to their conclusion.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and thus an award of costs is not justified.

Alison Partington

INSPECTOR