
Costs Decision

Site visit made on 16 February 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2021

Costs application in relation to Appeal Ref: APP/M9496/W/20/3262961 Anroach Farm, Downsedale, Quarnford, Staffordshire SK17 0TA

- 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 Ms S Lucop-Leech and Mr S Wake for a full award of costs against Peak District National Park Authority.
 - The appeal was against the refusal of planning permission for change of use of an agricultural building to a mix of purposes ancillary to a tourism business and storage of land management equipment, and the addition of a below ground rainwater storage tank.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that 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 process. Whilst the Guidance sets out a series of examples of behaviour whereby either a procedural or substantive award of costs may be justified, neither list is stated to be exhaustive.
3. The applicant contends that the Authority has acted unreasonably by failing to have regard to a valid fallback position. I have carefully considered the Authority's contention that when the application was considered it was not a foregone conclusion that prior approval would be granted for the change of use under Class R.
4. The applicant provides evidence that the Class R prior approval was submitted before the application for the development was decided. The applicant's view, expressed in an email to the Authority, was that logic would dictate that it would be better for the prior approval to be determined before the application proposal. I acknowledge that the Authority considers this email to be ambivalent, but the potential for there to be a fallback was a material consideration which the Authority failed to consider in determining the application.
5. Further, I appreciate that one could argue that until the prior approval was determined there was no clear fallback position and that the prior approval could have been submitted earlier in the process. Nevertheless, the potential for there to be a fallback, albeit one that required a prior approval to be considered, is a material consideration and the Authority should have had some

regard to it. The failure of the Authority to take the fallback position into account is unreasonable behaviour.

6. Nevertheless, as it can be seen from my decision, I consider that the proposal complies with the development plan assessed on its own planning merits and therefore the fallback position was not a determinative factor in my consideration of the proposal. The Authority did adequately set out in its report the reasons why it considered the proposal conflicted with the development plan at the application stage. Within the appeal statement on balance I consider the Authority made sufficient efforts to substantiate the reason for refusal against the Development Plan and made the case that the existence of the Fallback under Class R was not sufficient to outweigh the conflict with the development plan.
7. Based on the evidence before me I consider that the Authority is unlikely to have concluded that the fallback was a sufficient material consideration that would override the conflict with the development plan and the appeal could not therefore have been avoided.
8. Therefore, whilst I consider that the authority acted unreasonably, I do not consider that it has led to the applicant incurring wasted expense.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

Diane Cragg

INSPECTOR