

Costs Decision

Site visit made on 8 June 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Costs application in relation to Appeal Ref: APP/J9497/W/21/3269846 Field, Land of Willey Lane, Sticklepath, Okehampton

- 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 Brownless for a full award of costs against Dartmoor National Park Authority.
 - The appeal was against the refusal of planning permission for erection of open fronted agricultural building and associated landscaping.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The PPG goes on to state that 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, such as by preventing or delaying development which should have been permitted; by presenting vague, generalised or inaccurate assertions about a proposal's impact; and by not determining similar cases in a consistent manner.
4. The appeal costs regime cannot be used to seek compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. Consequently, the serious adverse economic consequences allegedly caused by the Authority's unreasonable refusal of the application cannot be taken into consideration.
5. In terms of the unreasonableness of the decision, I have found that the proposal accords with the development plan on this occasion. However, this balanced view was reached with the benefit of more detailed information about the need for the building and business plans for growth which were not available to the Authority at the time of its decision. This decision has also been reached on the basis of my findings from the recent site visit, which has allowed the business time to develop in the manner set out, thus providing a clearer rationale for the building.
6. In terms of the building's relationship with other buildings in the area, I agree with the Authority that unauthorised buildings constructed by the appellant should not be used as a basis for justification and anticipate that this situation

will be remedied in due course. The findings of the Authority's Landscape Officer are premised on the existence of the adjacent structures on the assumption that they were lawful, which does not appear to be the case and I do not consider that the Authority has been unreasonable in taking a different view to its professional advisor with the benefit of this knowledge.

7. In terms of the landscape character effects, I have also agreed that the proposal would be satisfactorily compatible with the local landscape character and would have a limited effect. However, this has again been on the basis that the vegetation on the bunds has been allowed time to develop to provide a good degree of screening, with further landscaping anticipated to maximise these effects.
8. In terms of whether the Authority has failed to determine similar cases in a like manner, I have reviewed the case referenced by the appellant¹. That scheme appeared to follow an appeal for an agricultural implement shed on the same site and for which the size of the shed was reduced in order to avoid harm to the character and appearance of the area and wider National Park. I note that the shed was not close to any other group of buildings in that area.
9. The Authority's case is not solely based on the isolated context of the building in its receiving landscape, but also about its overall harm to the area's character and appearance and the lack of justification therefor. It is also relevant to note that each proposal is determined on its own merits. Consequently, I am satisfied that the Authority has not been deliberately inconsistent in the handling of similar schemes, but that there were site-specific considerations in that case that indicated the overall outcome.
10. As such, in this instance, it does not appear that unreasonable behaviour in the manner described by the PPG has been demonstrated by the Authority that would justify an award of costs.

Conclusion

11. For the reasons stated above, and having regard to all other matters raised, a full award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR

¹ Planning ref: 0276/15