
Costs Decision

Site visit made on 23 February 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2022

Costs application in relation to Appeal Ref: APP/E2734/W/21/3285710 Marston Moor Farm, Atterwith Lane, Long Marston YO26 8JW

- 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 Mark Godliman for a full award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing agricultural unit and construction of new detached single dwelling.
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Decision

1. The application for an award of 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. The PPG indicates that local planning authorities (LPAs) are at risk of an award of costs if they behave unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The appellant says that the Council has behaved unreasonably in failing to follow case law regarding the assessment of its fallback position as a material consideration.
4. Although the Council's reason for refusal did not specifically reference the fallback position, it did so within the Officer's report where it accepted that the fallback scheme was a material consideration. Moreover, the report did seek to substantiate the Council's concerns by differentiating between the type of development proposed versus the fallback scheme and the relationship to national and local policy.
5. As such, I am satisfied that the Council gave weight to the fallback position and, as the decision maker, it is entitled to decide what weight it attaches to such material considerations. In any case, I have also found the fallback scheme, does not justify permission in this instance. As such, the Council has not prevented or delayed development which should clearly be permitted and there has not been any wasted expense during the appeal process.
6. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Mr R Walker

INSPECTOR