
Costs Decisions

Site visit made on 24 April 2023

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2023

**Costs application in relation to Appeal A Ref: APP/J9497/W/22/3298846
Tyrwhitt's Wharf, Site South-West of Clearbrook, Yelverton, Devon, PL20 6JD.**

- 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 Whitehead of Tyrwhitt's Café and Cycle Hub CIC for a full award of costs against Dartmoor National Park Authority (the NPA).
 - The appeal was against the decision of the NPA to refuse planning permission for the conversion of a barn to create a venue providing café, cycle hire, bike workshops and area for courses. (Concise description.)
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**Costs application in relation to Appeal B Ref: APP/J9497/Y/22/3298847
Tyrwhitt's Wharf, Site South-West of Clearbrook, Yelverton, Devon, PL20 6JD.**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr S Whitehead of Tyrwhitt's Café and Cycle Hub CIC for a full award of costs against Dartmoor National Park Authority (the NPA).
 - The appeal was against the decision of the NPA to refuse listed building consent for the conversion of a redundant barn into a cycle hub and café with community interest activities.
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Decisions

1. The applications are granted in accordance with the terms set out in the Order below.

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. However, costs may be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. One of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay.
4. A local planning authority may be at risk of an award of costs where it prevents or delays development that should clearly be permitted or fails to produce evidence to substantiate each reason for refusal on appeal or provides vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.

5. Prior to the determination of the applications the NPA properly sought and obtained the advice of its own offices, including its Ecology and Wildlife Officer and Building Conservation Officer. It also obtained the views of the highway authority. These all have experience and specialist knowledge on matters that were of direct relevance to the consideration of the applications before the NPA. Whilst the NPA is not bound to accept the advice of its own officers or the highway authority, where it chooses to do so, it is necessary to produce cogent evidence to justify taking a contrary stance.
6. Having carefully considered the proposals, the NPA's specialists and the highway authority all advised that either conditions could be attached to a permission and/or consent to address any outstanding concerns or that no conditions were necessary. The NPA's planning officer having considered all of the representations and applying their own knowledge and experience of the national park recommended both applications for approval.
7. At appeal, the NPA failed to demonstrate how its concerns over an intensification of visitors within this part of the national park would harm the character or landscape qualities of the area. There was no objective analysis to indicate what increase in visitor numbers the NPA was anticipating or anything of substance to reveal how this would result in landscape or visual harm.
8. The incremental loss of moorland can amount to cumulative harm. However, it was unclear how the NPA perceived that this very small parcel of section 3 moorland that was ecologically poor and with some bramble and gorse would be harmfully impacted and why this would not be overcome by way of the NPA's suggested condition to secure a net gain in biodiversity. There was no cogent evidence to demonstrate harm to this area of moorland or the special qualities of the national park.
9. There was also nothing of substance from the NPA to demonstrate any harm to the heritage interest of the listed building. Moreover, it was unclear how the NPA expects the building to be repaired and re-used in a 'less harmful' way to that which it asserted would arise from the appeal scheme.
10. It was very far from certain that the NPA in refusing permission and consent had properly weighed in the balance the public benefits of the proposals, including the repair and re-use of a redundant listed building, as well as a biodiversity net gain, support for healthy lifestyles and the very modest economic benefits that the proposals would secure. I concur with the applicant that in disregarding the advice of its officers the NPA failed to substantiate its reasons for refusal. In so doing, it delayed development and works that should reasonably have been permitted and this caused the applicant to pursue unnecessary appeals.
11. I conclude that the NPA behaved unreasonably in withholding permission and consent and this behaviour caused the applicant to incur the unnecessary expense of the appeals. A full award of costs is therefore justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dartmoor National Park Authority shall pay to Mr S Whitehead of Tyrwhitt's

Café and Cycle Hub CIC the costs of the appeal proceedings described in the headings of these decisions.

13. The applicant is now invited to submit to Dartmoor National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

Neil Pope

Inspector