
Costs Decision

Inquiry Held on 25 October 2022

Site visit made on 24 October 2022

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 06 September 2023

Costs application in relation to Appeal Ref: APP/J9497/X/21/3270206 Land adjacent to Holy Brook, Buckfast

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Holy Brook Meadows CIC for a partial award of costs against Dartmoor National Park Authority ('NPA').
 - The inquiry was in connection with an appeal against the refusal of the Council to issue a certificate of lawful use or development for Use of site for seasonal camp events for up to 50 days per annum during July, August and September and for agriculture for the remaining time.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Holy Brook Meadows CIC

2. The claim started by setting out that the NPA sought, and obtained, an adjournment for the first scheduled sitting of the Inquiry on the Friday before the following Tuesday, when it was due to commence. This was unreasonable and led to unnecessary work as the Appellant's solicitor had undertaken work on the preparation of his case some time before.
3. In terms of the NPA's case, it was claimed that the NPA failed to consider the evidence provided in 2017 in the manner it should have, and did not display the consistency required in *Webber*.

The response by Dartmoor National Park Authority

4. In respect of the initial aspect of the claim, the NPA expressed surprise that the Appellant's solicitor asserted that he had prepared long before the Inquiry. The NPA also said they would have expected at least this part of the claim in writing before the event. The NPA said that what was said in 2017 was not relevant to this application for a certificate. It struggled to discern the point made regarding *Webber* and that it was the Appellant that had got this wrong. It ended by saying that there was no unreasonable behaviour on its part and no unnecessary costs resulted from its actions.

Reasons

5. 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. The

- 'test' is thus two-fold: it has to be demonstrated that there was unreasonable behaviour and that this led to unnecessary or wasted expense.
6. On the matter of the adjournment, this was actually instigated by the Planning Inspectorate as it appeared that the NPA had not carried out the appropriate notification, as required by the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002. Notwithstanding this, in correspondence the NPA agreed that notification had not been carried out correctly and that the Inquiry should be adjourned.
 7. I understand the Appellant's solicitor's position that he could not hold the case in his head for the period until the rearranged Inquiry, and had to prepare for the case again. I would expect any person representing a client in such important circumstances to do just this; not to do so would, to my mind, be unprofessional.
 8. The Appellant said that the NPA was put on notice of the possibility of a claim being made, by email. I assume that this was the email of 12 May 2022, which ends with the line that "If the inquiry is adjourned, and costs wasted, as a result of the Authority's failure to notify third parties then the Appellant may seek an award of costs". Though it might be argued that the notification of the claim – at least on this point – could well have been made before the Inquiry, there is no absolute requirement for this.
 9. The Council's failure to carry out the notification of the Inquiry in the required manner amounted to unreasonable behaviour. This led to unnecessary work for the Appellant's solicitor that led to unnecessary expense to his client. On this matter, an award of partial costs is justified.
 10. There were some differences in the NPA's approach to assessing the 2017 certificate application, and that which it took in determining the application that led to the Inquiry. However, I did not find that this was unreasonable behaviour, leading to unnecessary or wasted expense. I found that *Webber* did not support its position and that the "normal" use, as *Webber* would have it, was seasonal: camping for part of the year and agriculture for the remainder. However, its case – including on this matter – was coherent and well set out. Its actions were reasonable and did not lead to unnecessary or wasted expense.

Costs Order

11. 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 Holy Brook CIC, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparing for the rearranged Public Inquiry; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. 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.

Roy Curnow

Inspector