



Costs Decision

Site visit made on 31 January 2024

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Costs application in relation to Appeal Ref: APP/J9497/X/23/3320068 Waycotts Orchard, Merrifield Road, Buckfastleigh, Devon TQ11 0HE

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Tobias Goulden for a full award of costs against Dartmoor National Park Authority (NPA).
 - The appeal was against the refusal of a certificate of lawful use or development for the "creation of residential dwelling known as the Cabin".
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Decision

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

Preliminary Matters

2. The appellant has not specified the scope of their application. However in the context of what has been written, I will deal with it as an application for a full award of costs.

Reasons

3. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Costs may however 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.
4. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice; to encourage local planning authorities to properly exercise their development management responsibilities; and to discourage unnecessary appeals.
5. I have dismissed the appeal and not issued a Lawful Development Certificate. Notwithstanding that fact, the costs regime relates to the reasonableness or unreasonableness of the parties rather than the outcome of the appeal.
6. The appellant (the applicant for costs) takes exception to the way in which the physical changes that occurred at the site have been described. What is more important however in such situations is to describe in detail what the facts are about such building operations, backed up by evidence, so that the significance can be assessed by the inspector in reaching their decision. The labels or phrases used by the parties to the type or nature of such works possibly using

an emphasis to suit their own case, are less important than demonstrating the facts as far as possible and with precision. Neither the NPA's description of the veranda as having been "rebuilt" nor the appellant's interpretation that it had been "upgraded" had any bearing on the way I considered the building in the appeal. Furthermore, the case did not turn on whether the changes to the building were an upgrade or re-build. Neither description was unreasonable to use.

7. The facts about what building works were undertaken in 2020 were not provided with much precision by the appellant. It is inappropriate for the appellant to suggest that what the NPA had said about the veranda was a "straw man argument". The facts were not obvious as the appellant unfairly suggests.
8. The NPA referred to a withdrawn government circular (*10/97 Enforcing Planning Control: legislative provisions and procedural requirements*). This included reference within the NPA's Officer Report that resulted in the refusal of the LDC application. However, whilst such references need to be used with care, the report did make it clear that the circular had been cancelled. Furthermore, what the circular says with respect to the main issues in the appeal remains reasonable advice in the context of the case law surrounding those matters. In addition, when it came to the appeal statement, the context of this reference, in part at least, related to a previous appeal decision that had been referred to by the NPA. In that appeal from 2010, the Inspector had referred to that circular as it was current at the time of that decision and therefore it had some relevance to the present case.
9. With respect to the references to case law, I do not agree that the NPA inaccurately cited the main cases. The cases referred to were relevant and cited in context of the present case. Whilst the appellant may have had a different interpretation, we all, including me as the decision-making inspector, have to make judgements and interpret such cases where there is no statutory definition to assist us. I can understand that it is sometimes difficult to find the quoted caselaw, it is not clarified whether the appellant asked the NPA for copies and so I cannot identify any unreasonable behaviour on their part.
10. The appellant has also suggested that the NPA should have considered their own policies relating to the simple dwellings found on Dartmoor. Policies are not relevant when deciding LDCs. Furthermore, those policies which relate to low impact residential development, do not provide a definition for what may be considered as a dwelling house in this particular area, concentrating on less conventional residential accommodation. That unconventional residential accommodation may well also not be considered as dwelling houses with respect to the relevant caselaw. The policies are of no assistance therefore in the legal determination that I made in the appeal and so the NPA were reasonable in not relying on them.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Harwood

INSPECTOR