



## Costs Decision

Site visit made on 13 August 2024

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> September 2024**

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### **Costs application in relation to Appeal Ref: APP/Q9495/W/24/3343398 Oak Vale, Minor Road From Stanger Cottages Towards Thornthwaite, Braithwaite CA12 5RY**

- 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 Ms S. Mawdsley & Mr M. Rankin for a full award of costs against the Lake District National Park Authority.
- The appeal was against the refusal of planning permission for reconfiguration of 3 existing dwellings to provide 2no. new build local needs dwellings and retain 1no. dwelling within the existing building.

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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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. Unreasonable behaviour may be procedural and/or substantive.
3. In summary, the applicants argue that the Authority has acted unreasonably as the decision to refuse planning permission was contrary to the positive pre-application advice given and there have been no new material considerations in the intervening period to indicate a different position. The Authority disputes that it has acted unreasonably.
4. Both the National Planning Policy Framework and the PPG identify the benefits of pre-application engagement. The PPG states that a prospective applicant should expect a clear, timely, and authoritative, view on the merits of a proposed development<sup>1</sup>. The pre-application advice given by the Authority in 2020 was generally supportive of a scheme for two houses on the site. I can therefore appreciate the applicants' frustration with the decision made by the Authority.
5. Nonetheless, I am mindful that in terms of site-specific considerations, the pre-application advice is caveated with 'subject to precise siting, scale and design'. The Authority identifies that the houses as proposed in the planning application would be sited around five metres further back on the site than the layout shown with the pre-application enquiry. The application scheme would therefore be at a higher point on the upward sloping land, one of the Authority's areas of concern. Additionally, it appears that while a site plan was

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<sup>1</sup> Paragraph: 010 Reference ID: 20-010-20150326

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included with the pre-application enquiry, a design for the dwellings or indications of their scale and massing were not.

6. Furthermore, informal advice before an application is made is given without prejudice and cannot pre-empt the democratic decision-making process or a particular outcome of a subsequent application, which must take account of all relevant factors. This includes detailed and/or site-specific considerations which may not have been fully available at the pre-application stage. A similar disclaimer was made in the Authority's pre-application response.
7. Consequently, while the outcome of the application will have been a disappointment to the applicants, the Authority was not unreasonable in coming to that decision based on the content of the pre-application advice.
8. For these reasons, I cannot conclude that the Authority has acted unreasonably in its handling of the application or subsequent appeal. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

*F Wilkinson*

INSPECTOR