



Costs Decision

Hearing held on 10 December 2024

Site visit made on 10 December 2024

by **A A Phillips BA (Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Costs application in relation to Appeal A Ref: APP/Q9495/C/24/3345465

The River House Retreat, The River House, Clappersgate, Ambleside LA22 9NQ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Timothy Coupe for a full award of costs against Lake District National Park Authority.
- The appeal was against an enforcement notice alleging without planning permission, the making of a material change of use of the Land to residential, including the residential occupation of a caravan, and the carrying out of associated works to facilitate the residential use including the erection of timber decking with steps, the installation of steel box section posts and the construction of a concrete blockwork wall to the underside of the caravan.

Appeal B Ref: APP/Q9495/C/24/3345466

The River House Retreat, The River House, Clappersgate, Ambleside LA22 9NQ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Timothy Coupe for a full award of costs against Lake District National Park Authority.
 - The appeal was against an enforcement notice alleging without planning permission, the making of a material change of use of the Land to residential, including the erection of a building, and the carrying out of associated works to facilitate the residential use including the erection of timber decking with steps, the installation of steel box section posts and the construction of a concrete blockwork wall to the underside of the building.
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Decisions

1. The applications for an award of costs with respect to both appeals is allowed in the terms set out below.

The submissions for Mr Timothy Coupe

2. The costs application was made orally at the hearing.
3. His case is that the National Park Authority (the NPA) cannot sit on the fence with respect to the two enforcement notices served because they are inconsistent with one another. They should make allegations that stick and should understand what they are alleging. Therefore, because the NPA has not decided whether the unit in place is a caravan or a building he has had to defend both Notices at double the cost. The appellant argues that both allegations could have been included in the same Enforcement Notice. There is also inconsistency in the approach taken in the light of a previous lawful development certificate (LDC) issued.

The response by Lake District National Park Authority

4. The response was made orally at the hearing.

5. It is not unreasonable to serve enforcement notices in the alternative. If the appellant did not agree with a Notice, he would have had to appeal in any case and the cases are so interlinked that no additional time or costs have been incurred by appealing against both notices.

Reasons

6. 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.
7. As I have set out in the main decision the NPA suggested that the Notices should both be amended to clarify that the alleged breach of planning control is the formation of a separate residential unit rather than there being a material change of the use of the Land to residential. Those are materially different allegations.
8. The powers transferred to Inspectors in enforcement appeals include to correct any defect, error or misdescription in the Notice under s176(1)(a) of the 1990 Act and/or vary the terms of a Notice under s176(1)(b) of the 1990 Act where the Inspector is satisfied that doing so would cause no injustice to the appellant or the local planning authority.
9. The existing Notices served by the NPA clearly relate to the making of a material change of use of the Land to residential use including either the residential occupation of a caravan or the erection of a building with associated works to facilitate the residential use. Appeals should be assessed against the terms of the specific allegation or allegations and therefore it follows that the evidence submitted at appeal should be based on the allegation or allegations in question. In this case the appellant's case is built on what is alleged in the Notices and consequently, to materially change the allegations would cause him injustice.
10. It is evident that at some stage the NPA determined that the Notices did not serve the purposes for which they were intended – relating to the creation of a separate independent residential unit – but rather than withdrawing the Notices they continued the appeal process. The Authority should have known that the Land in question was residential land already and therefore that amending the Notices as they suggested would cause injustice to the appellant.
11. By continuing the appeal process and defending their action to take enforcement action against inaccurate allegations the Authority acted unreasonably, causing the appellant to incur unnecessary costs in the appeal process.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs with respect to both appeals is justified.

Costs Order

13. 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 the Lake District National Park Authority shall pay to Mr Timothy Coupe, the costs of both

appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

14. The applicant is now invited to submit to the Lake District 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.

A A Phillips

INSPECTOR