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Graham Clark
GRC Planning

Your Ref:

BY EMAIL ONLY

Our Ref: APP/J9497/W/24/3346089

Date: 26 February 2025

Dear Mr Clark

Local Government Act 1972 - Section 250(5)
Town and Country Planning Act 1990
Appeal by Mr and Mrs J Cole
Site Address: Torlands Barn, Broomhill Farm, Harford PL21 0JG

APPLICATION FOR AN AWARD OF COSTS

1. I am directed by the Secretary of State for Housing, Communities and Local Government to decide your application for an award of costs, on behalf of the appellants, made on 30 October 2024 against Dartmoor National Park Authority ("DNPA"). The appeal, dated 11 June 2024, was against the DNPA's refusal to grant planning permission for the conversion of barn and shippon to a live-work unit.

Decision

2. The application is refused.

Basis for determining the costs application

3. Planning Practice Guidance (PPG) says that costs may be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. Examples of unreasonable behaviour which may result in an award of costs include lack of co-operation with the other party or parties and delay in providing information or other failure to adhere to deadlines.

Reasons

4. The appellants contend that DNPA behaved unreasonably by failing to submit a statement of case ("SoC") - this prevented the appellants from challenging any material points that may have been made in the SoC. The appellants also contend that DNPA behaved unreasonably by failing to conclude a S106 Agreement by the 26 September 2024 deadline. As a result, the appellants were compelled to submit a Unilateral Undertaking ("UU") instead. The appellants incurred wasted expense as a result.
5. On the first point, DNPA accept that it failed to submit a SoC because of an administrative mistake. However, the appellants had an opportunity to contest the DNPA's reasons for refusing planning permission in their SoC; it is clear from the submitted SoC that the appellants took advantage of such an opportunity. Therefore, although DNPA's failure to submit its SoC was unfortunate it does not amount to unreasonable behaviour.

6. As regards the second point, on 5 August 2024 the appellants (through their solicitor) asked DNPA (through Devon County Council's solicitor) to provide a draft S106 Agreement. DNPA sought clarification from the appellants regarding the nature of the Agreement so that a draft could be prepared. However, despite repeated requests no such information was provided. DNPA maintains that it was not informed about the 26 September 2024 deadline but an Agreement would and could have been concluded had the appellants provided the information sought.
7. An exchange of emails between DNPA's and the appellants' solicitors about the preparation of an Agreement was included with DNPA's response to the costs application. The appellants have not commented on the email exchange nor do they dispute DNPA's assertion that the information it sought about the Agreement was not provided and that it was not informed about the deadline for its submission. Had the appellants provided the information sought it seems likely that an Agreement could have been concluded on time. The Secretary of State therefore considers that the failure to conclude an Agreement was not the fault of DNPA. While the appellants chose to submit a UU as an alternative to an Agreement it was evidently not a significant factor in the Inspector's appeal decision.
8. The Secretary of State is satisfied that DNPA has not behaved unreasonably in the appeal. While the appellant may have incurred costs in the appeal process relating to the preparation of an Agreement and UU, this was not as a result of any unreasonable behaviour on the part of DNPA. It has not been shown that DNPA failed to co-operate with the appellants or that it failed to meet stated deadlines. An award of costs against DNPA will not therefore be made.
9. A copy of this letter has been sent to DNPA.

Yours sincerely

Richard Holland

Authorised by the Secretary of State to sign in that behalf