



# The Planning Inspectorate

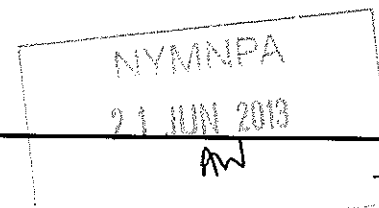
Quality Assurance Unit  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services:

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Mrs J Cavanagh  
North York Moors National Park  
Authority  
Development Control Support  
Officer  
The Old Vicarage  
Bondgate  
Helmsley  
York  
YO62 5BP

Your Ref: NYM/2012/0482/FL  
Our Ref: APP/W9500/A/12/2184031  
Date: 21 June 2013



Dear Mrs Cavanagh

**Town and Country Planning Act 1990  
Appeal by Mr Stephen Towse  
Site at Bottoms Lane, High Hawsker , North Yorkshire**

I enclose a copy of our Inspector's decision on an application for an award of costs following issue of the Inspector's appeal decision on 26 March 2013.

If you have queries or feedback about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on

You should also note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly. Please contact the Administrative Court for further information.

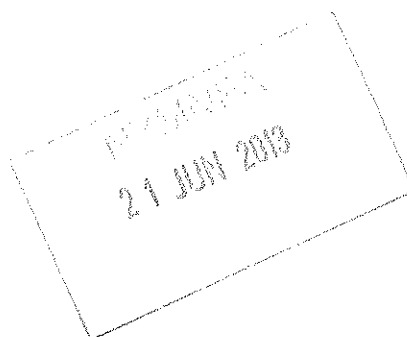
Yours sincerely



Erin Lindell

COVERDL2

*You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcportal/casearch.asp>  
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*





NYM/NPA

21 JUN 2013

## Costs Decision

Site visit made on 12 March 2013

by **Michael R Moffoot DipTP MRTPI DipMgt MCMi**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 June 2013

### **Costs application in relation to Appeal Ref: APP/W9500/A/12/2184031 Bottoms Lane, Hawsker-cum-Stainsacre YO22 4LL**

- 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 North York Moors National Park for an award of costs against Mr Stephen Towse.
- The appeal was against the refusal of planning permission for 'outline planning application for the construction of a detached bungalow with pitches for up to 5 touring caravans'.

### **Decision**

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

### **Reasons**

2. Circular 03/2009<sup>1</sup> advises that, irrespective of the outcome of the appeal, costs may only 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.
3. Paragraph B13 of the Annex to the Circular advises that an appellant is at risk of an award of costs being made against them if, on the basis of the available evidence, the appeal plainly had no reasonable prospect of succeeding on the basis of the application submitted to the planning authority. It advises that such circumstances may occur when "*development is proposed which is obviously not in accordance with the statutory development plan and no, or very limited, other material considerations are advanced with inadequate supporting evidence to justify determining otherwise*".
4. Paragraph A23 states that where a planning authority applies for an award of costs against an appellant, whether behaviour is regarded as unreasonable or not will take account of the appellant's evident experience and whether they are professionally represented. In this case the applicant was professionally represented. In these circumstances, I would expect the agent to have recognised that the appeal site lies in open countryside where new development is not normally permitted and to have assessed the proposal against the relevant development plan policies for compliance.
5. The Design & Access Statement accompanying the planning application indicates that the dwelling would be used as manager's accommodation in conjunction with the proposed caravan pitches and would not be for open

<sup>1</sup> Circular 03/2009: *Costs Awards in Appeals and Other Planning Proceedings*

market sale. However, no case was made that the development was essential for an essential land management activity as set out in Core Policy J of the *Core Strategy and Development Policies* document. It should also have been clear that the site is not located within "well established woodland or forest" and that the proposal is not "physically and functionally linked to an existing business" that cannot be managed without the need for additional permanent residential accommodation, as described in Development Policy 16 of the Local Development Framework.

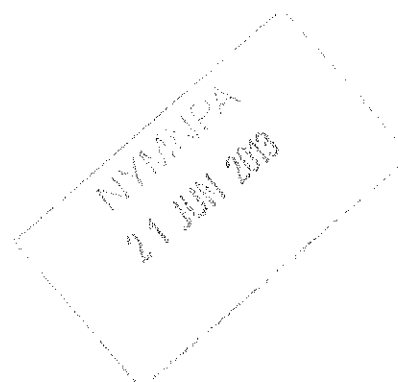
6. Although the applicant put forward other considerations which in his view justified the proposal, including the status of the site as previously-developed land and the contribution the development would make to tourism in the area, the supporting evidence was scant and inadequate.
7. The appellant was professionally represented both at the planning application and the subsequent appeal stages, and it should have been plain that the proposal would be clearly contrary to the statutory development plan. In all these circumstances, it was clear that the application would have no reasonable prospect of succeeding.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense relating to the costs of the appeal has been demonstrated, as described in Circular 03/2009. I therefore conclude that an award of costs is justified.

#### **Costs Order**

9. In exercise of my 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 powers enabling me in that behalf, I HEREBY ORDER that Mr Stephen Towse shall pay to the North York Moors National Park Authority costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
10. The applicant is now invited to submit to Mr Stephen Towse, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Michael R. Moffoot*

Inspector



# The Planning Inspectorate

## Award of appeal costs:

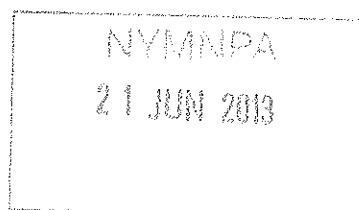
### Local Government Act 1972 – section 250(5)

#### How to apply for a detailed and independent assessment when the amount of an award of costs is disputed

This note is for general guidance only. If you are in any doubt about how to proceed in a particular case, you should seek professional advice.

If the parties cannot agree on the amount of costs to be recovered, either party can refer the disputed costs to a Costs Officer or Costs Judge for detailed assessment<sup>1</sup>. This is handled by:

The Senior Court Costs Office<sup>2</sup>  
Clifford's Inn  
Fetter Lane  
London EC4A 1DQ



But before this can happen you must arrange to have the costs award made what is called an order of the High Court<sup>3</sup>. This is done by writing to:

The Administrative Court Office  
Royal Courts of Justice  
Strand  
London WC2A 2LL

You should refer to section 250(5) of the Local Government Act 1972, and enclose the original of the order of the Secretary of State, or their Inspector, awarding costs. A prepaid return envelope should be enclosed. The High Court order will be returned with guidance about the next steps to be taken in the detailed assessment process.

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<sup>1</sup> The detailed assessment process is governed by Part 47 of the Civil Procedure Rules that came into effect on 26 April 1999. These rules are available online at [http://www.justice.gov.uk/civil/procrules\\_fin/menus/rules.htm](http://www.justice.gov.uk/civil/procrules_fin/menus/rules.htm)

You can buy these Rules from The Stationery Office bookshops or look at copies in your local library or council offices.

<sup>2</sup> Formally named the Supreme Court Costs Office

<sup>3</sup> Please note that no interest can be claimed on the costs claimed unless and until a High Court order has been made. Interest will only run from the date of that order.