
Costs Decision

Site visit made on 31 January 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 28 February 2017

Costs application in relation to Appeal Ref: APP/P1045/W/16/3161175 Buckholme Farm, Mayfield Road, Ashbourne, Derbyshire DE6 2BJ

- 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 Mr J Bubber for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for new residential dwelling on essentially the same footprint as the previous cottage on the site which collapsed following repair work in 2014.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
 3. First, the applicant states that the Council's reasons for refusal are unreasonable and contrary to guidance in the National Planning Policy Framework (the Framework). However, as can be seen from my Appeal Decision, I concur with the Council that their concerns in relation to sustainability of location, character & appearance and flooding are justified and I have dismissed the appeal on that basis. It follows that I am satisfied that the Council has shown that it can substantiate its reasons for refusal and that I cannot agree that the Council has behaved unreasonably in this respect.
 4. Second, the applicant states that the Council have not given reasonable opportunity to discuss their concerns on the scheme before refusing the application. In response, the Council state that numerous meetings have taken place with the applicant and his agent and have provided correspondence dated 3 October 2014 which refers to the cottage. Whilst these discussions may have taken place within the context of the development of the main Buckholme Farm building, it is clear from the Council's letter that they would consider the re-erection of the cottage as representing new residential development in the countryside. Whilst the Council may not have stated that the proposal would be refused in principle, such pre-application discussions are undertaken without prejudice to the decision that the Council may make on a subsequent planning application.
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5. Furthermore, I am not persuaded that on-going discussions would have overcome the concerns in relation to this proposal. The issues in relation to the sustainability of the dwelling and the effect on character and appearance are inherent to the location of the proposal as an isolated dwelling in the countryside. The sequential approach to flood risk is clearly stated in the Framework and Planning Practice Guidance and as the applicant was in receipt of professional advice on this issue then he should have been aware of this requirement. Therefore, in my view, discussions would not have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR