

---

## Costs Decision

Site visit made on 23 January 2017

**by David Cross BA (Hons), PGDip, MRTPI**

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

**Decision date: 29 March 2017**

---

**Costs application in relation to Appeal Ref: APP/R0660/W/16/3161721  
Stone Cottage, 14 Summerhill Road, Prestbury, Macclesfield, Cheshire  
SK10 4AH**

- 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 Howard Bilton for a full award of costs against Cheshire East Council.
  - The appeal was against the refusal of planning permission for demolition of an existing part single-storey, part two-storey, detached dwelling and the construction of a two-storey detached replacement dwelling.
- 

### Decision

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

### Reasons

2. 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.
3. With regards to the length of time to determine the application, the Council states that this is a complex case and that the appellant could have exercised his right to appeal against non-determination. Based on my consideration of the appeal and evidence provided to me, I concur that this is a complex proposal and that the Council did not act unreasonably in the length of time taken to determine the application.
4. I note the applicant expresses concern about the lack of feedback from the Council or a response to requests to discuss the proposal prior to their determining the application. However, due to the identified conflicts with local and national policy in relation to the Green Belt, I am not persuaded that if discussions had taken place that they would have overcome this issue. Therefore, 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<sup>1</sup>.
5. The appellant also contends that the Council has behaved unreasonably in only using height when assessing the development as being materially larger than the existing house and the approved replacement house. However it is clear

---

<sup>1</sup> Planning Practice Guidance Paragraph: 049 Reference ID: 16-049-20140306

from the Officer's report that the Council considered a range of dimensions including footprint, floorspace, volume and height. As can be seen from my Appeal decision, I agree with the Council that height can be a determinative matter when considering the physical factors indicating the relative size of buildings. I therefore consider that the Council has not behaved unreasonably in this respect.

6. The applicant also states that no assessments were undertaken by the Council in respect of additional height on the openness of the Green Belt or to consider this alongside reductions in other dimensions. Furthermore, the applicant states that the Council did not consider legitimate fall-back options. However, it is clear from the Officer's report that a range of dimensions were assessed for the proposal and fallback developments. The Council then determined that the greater height of the proposal is materially different and that this would in turn affect openness. I do not consider that the Council's approach to these matters was unreasonable.
7. The applicant claims that the Council have not determined similar cases in a consistent manner and has referred to a dwelling approved at 12 Summerhill Road immediately adjacent to the site which was approved by the Council in 2007. However, as stated in my Appeal Decision, I am not persuaded that these cases are sufficiently similar due to the age of the previous decision, changes in national and local policy and uncertainty in relation to the comparative nature of the dwellings being replaced.

### **Conclusion**

8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated.

*David Cross*

INSPECTOR