



Costs Decision

Site visit made on 23 June 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 6th July 2020

Costs application in relation to Appeal Ref: H1033/D/20/3251971 Windy Nook, Apple Tree Road, New Mills SK22 4EE

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Louise Jennings for an award of costs against High Peak Borough Council.
 - The appeal was against the refusal of planning permission for extension to each side of the existing property creating large master bedroom space, and larger kitchen/diner and living space on ground floor. Basement floor plan is reconfigured to add two new rooms. The existing building exterior will have new white render, and the extension to each side of the proper will be clad in grey horizontal trepsa cladding.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. The application centres on the applicant's claim that the Council: (a) made vague, generalised and inaccurate assertions about the proposal's impact, which were not supported by objective analysis and evidence; and (b) failed to assess the proposal against the correct development plan policy.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they make vague, generalised or inaccurate assertions about a proposal's impact, and act contrary to policy.
5. Regarding matter (a), in the second reason for refusal (RFR) the Council did not specify which properties it considered would experience loss of privacy. Nevertheless, the RFR stated 'direct overlooking of existing neighbouring residential development which would result in a loss of privacy currently enjoyed by neighbouring residents', and the Planning Officer's report clearly identified 19 Cowburn Drive and 103 Mellor Road. As such, the properties of concern were, in totality, reasonably evidently identified by the Council.
6. The Planning Officer's report did not state that angles between windows in the proposal and No 103 Mellor Road would be oblique. It would have been helpful if the Council had more fully articulated its thinking on the relationship between

the two buildings. Nevertheless, it is not decisively shown that the Council did not consider the angles in reaching their decision.

7. In respect of matter (b), the applicant considers that the Council failed to take full account of paragraph 8.6.1 of the High Peak Residential Design Supplementary Planning Document (2005) (SPD), in respect of flexibility, and consequently, overstated the planning harm of the proposed scheme.
8. It will be clear from my appeal decision that I have reached a different view from the Council regarding the impact of the proposed development. Nevertheless, given the potential sensitivity of such separation gaps, as evidenced by inclusion of the issue in section 8.6 of the SPD, the Council was entitled to reach its planning judgement on this matter.
9. To conclude, I find that in relation to matters (a) and (b) unreasonable behaviour is not decisively demonstrated. Furthermore, I have no certainty that, had the Council been more specific in respect of the above points, the core arguments would have been significantly different in scope, or an appeal would have been avoided.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR