



Costs Decision

Site visit made on 28 July 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Costs application in relation to Appeal Ref: APP/R1038/W/20/3250703 Park Farm, Park Avenue, Holmesfield S18 7XA

- 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 W Clay for a full award of costs against North East Derbyshire District Council.
 - The appeal was against the refusal of planning permission for Approval of Reserved Matters (access, layout, scale, appearance and landscaping) for 3 dwellings pursuant to outline planning permission 15/01225/OL (Affecting a public right of way).
 - Summary: A partial award of costs is allowed.
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Decision

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

Reasons

2. Paragraph 30 of the government's Planning Practice Guidance ("the PPG") advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Applicant submits that the Council have not adhered to the previous Planning Inspector's recommendations regarding heights of the proposed buildings and that they misdirected them regarding amendments to the scheme.
4. The Council refused the planning application on the grounds that the development does not represent a single storey dwelling and its design and scale would impact upon the openness of the Green Belt, as well as compromise the Special Landscape Area to which the site is located.
5. The previous Planning Inspector was clear in their decision that the heights of the proposed single storey dwellings, as indicated in outline, would be '*commensurate*' with the height of the existing buildings. To my mind, it was reasonable to consider this included the height of the existing dwelling on site and was a reference point to build upon.
6. I can find no reason why the previous Planning Inspector would discount the existing dwelling from being considered as such. Nor would I consider the existing dwelling on site to be of two-storeys in height given there are no

staircases or habitable rooms within the roof space. I consider their interpretation that this building is two-storeyed to be misleading.

7. The Council have however advised upon heights they deemed to be appropriate for a standard single storey dwelling and applied this approach to the proposal. There is evidence provided within the appeal relating to the Council suggesting to the Applicant that lower eaves and ridgelines would be more conducive of a single storey dwelling, and provided broad dimensions. However, this was not reasonably based on the recommendations of the previous appeal decision.
8. Some negotiations have occurred during this particular planning application process, to which the Council comment they are not obliged to do so. However this would be in the spirit of maintaining effective cooperation in line with advice contained within the National Planning Policy Framework.
9. Irrespective of the accuracy of the provided heights of buildings within the site, even so, the Council have acted unreasonably by seeking the amendments to ridgelines and eaves heights as they have not followed the previous Inspector's recommendations. They have misdirected the Applicant in this regard.
10. The Applicant agreed to amend their plans to a certain degree to accommodate their request, as presented to them by the Council. Whilst it may not have precisely met the Council's overall request, I am of the view this was misdirected, and time and effort has been expended by the Applicant.
11. Although I have not found in favour of the proposal, this is as a consequence of the effect of the roof design, its scale and massing and resultant effect on the openness of the Green Belt and on the Special Landscape Area, I do however find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance has been demonstrated and that costs in part is reasonable and justified in this instance.

Costs Order

12. In exercise of the 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 enabling powers in that behalf, IT IS HEREBY ORDERED that they shall pay to Mr W Clay, a partial award of costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to the North East Derbyshire District Council, 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.

Alison Scott

INSPECTOR