
Costs Decision

Site visit made on 7 September 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

**Costs application in relation to Appeal Ref: APP/P1045/W/20/3254347
Land at Nether Lane, Kirk Ireton, Ashbourne, Derbyshire Easting: 426911
Northings: 350100**

- 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 and Mrs Aled and Dominie Edwards for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for 2no. proposed 4-bed dwellings to infill land on the east side of Nether Lane, Kirk Ireton.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Parties in the appeal process are normally expected to meet their own expenses.
3. The applicant is of the view that the planning application subject of the appeal should have been granted and thus the appeal should not have been necessary. In their view they have as a result incurred unreasonable expense.
4. The applicant and the Council actively engaged in pre-application discussions about developing the site. These discussions seem to have taken place in good faith and broad agreement was reached about the potential development of the site. I note amendments were made to the design of the scheme with a view to finding a solution that would ultimately be acceptable to the Council.
5. Pre-application advice can be a material consideration in the consideration of a development proposal. However, a local planning authority is not bound by this advice when considering a formal planning application. The applicant has included extracts of the advice provided by the Council within their application for an award of costs.
6. Notwithstanding this, and although the Council did not respond to the applicant's application for an award of costs, the proposal's effect did require careful consideration in relation to the designated heritage asset. It strikes me

that in this case there are different professional judgments about the proposal's effect. This does not necessarily mean that one carries greater standing than the other. The Council was also entitled to consider the planning application before them and reach a conclusion on it. In doing so, despite my findings in respect of the Council's stance, it has substantiated its case, and hence it is not clear that the planning application should have been granted or the appeal not been necessary. As such, the Council has not acted unreasonably and thus unnecessary or wasted expense has not been incurred by the applicant.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Andrew McGlone

INSPECTOR