



Costs Decision

Site visit made on 8 June 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Costs application in relation to Appeal Ref: APP/A4710/W/21/3270078 Land south of 7 to 17 Spark House Lane, Sowerby Bridge HX6 3QU

- 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 Stuart Allison for a full award of costs against Calderdale Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing stables to facilitate a residential dwelling.
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an 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. Local planning authorities are at risk of an award of costs against them where there is evidence of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The applicant's claims are in relation to a misinterpretation and misapplication of policy leading to the unnecessary requirement to appeal its decision.
4. In the circumstances of the case, on accepting that the status of the site constituted previously developed land it was a matter for the Council to consider the likely effects on the openness of the Green Belt as the remaining determinative matter under Paragraph 145 g) of the National Planning Policy Framework (the Framework). As an outline application with all detailed matters reserved, I acknowledge that there can be some difficulty in making a concise judgement on this matter due to the absence of detail.
5. The plans submitted by the applicant indicate a replacement building built on two levels and with a greater overall height than the existing building. Such a building may cause adverse effects on openness in comparison to the existing stable and would, perhaps, fail the test of openness as set out in the Framework.
6. The fact that the drawings are identified as proposed plans and neither marked illustrative or indicative was unhelpful, as was the conflicting advice between the drawings submitted and that provided for the purpose of the appeal in

- relation to the number of levels that accommodation might be provided over. However, as I have found, there was sufficient evidence to demonstrate that a full complement of residential accommodation could be provided within a similarly scaled building to the stable. For the purposes of an outline permission, this was the only necessity.
7. Nevertheless, the Council's report and statement failed to provide a clear assessment or commentary on the likely effects on openness which were determinative to the case. Despite reference to the appropriate exemption in Paragraph 145 within the applicant's Design and Access Statement, the Council's approach appears confused and refers to a requirement for the proposed building 'to be in the same use and not materially larger than the one it replaces'.
 8. The 'redevelopment' provisions under Paragraph 145 g) do not require a site to be retained in the same use and are distinct from the alternative exemption for replacement buildings listed at Paragraph 145 d). Only one exemption needs to be met to establish that the development is not an inappropriate form of development in the Green Belt.
 9. Furthermore, despite recognising a clerical error in its delegated report with reference to caravans on the site which would affect openness (which there are not), the Council's appeal statement subsequently provided no further detailed assessment of the effects on openness or identified from where any such effects would arise. A further rectified reference to Paragraph 146 provisions within the Council's rebuttal to the costs claim is also unqualified in the context of the appeal.
 10. Taking all of the above matters into consideration, I find that the Council has failed to substantiate its refusal of planning permission. It has provided vague assertions about the development's impact which are unsupported by any objective analysis. I find this constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
 11. For the above reasons an award of costs is justified.

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 the Calderdale Metropolitan Borough Council shall pay to Mr and Mrs Stuart Allison the costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to the 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.

R Hitchcock

INSPECTOR