



Costs Decision

Hearing held and site visit made on 24 October 2023

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2023

Costs application in relation to Appeal Refs: APP/R1038/C/22/3308018, APP/R1038/C/22/3308029 and APP/R1038/W/22/3305874

Land at Hagg Hill Hall, Hagg Hill, New Tupton, Chesterfield S42 6JU

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Melvyn Humphreys for a full award of costs against North East Derbyshire District Council.
 - The appeals were against an enforcement notice alleging the erection of two cabins, against an enforcement notice alleging the material change in the use of land from agriculture to recreation and leisure purposes, and against the refusal of planning permission for the erection of two cabins.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. As mentioned above, costs may be awarded against a party who has behaved unreasonably 'in the appeal process'. In this regard what occurred during the application process is not relevant. The planning application was not refused for any reason that could have been dealt with by imposition of a condition to retain a tree belt between the cabins and the Hall. The Council has provided a clear and concise analysis of their concerns regarding the effect of the two cabins on the character and appearance of the landscape. Their 'no' answers in all three questionnaires are inconsequential.
4. The Council would have issued the operational development enforcement notice irrespective of any new evidence on the date of substantial completion of the two cabins, because they not unreasonably relied on the dates given on the planning application form. They would, furthermore, given their stance that the material change in use of the land occurred when the two cabins were erected, have issued the change of use notice irrespective of any new evidence on the use of the land since the 1950's. The Council has not acted unreasonably and the claim for costs is unjustified.

John Braithwaite

Inspector

