
Costs Decision

Site visit made on 11 February 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 March 2025

Costs application in relation to Appeal Ref: APP/C3430/W/24/3352052

83-85 Springhill Lane, Lower Penn, Wolverhampton WV4 4TW

- 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 A Nijjer for a full award of costs against South Staffordshire District Council.
 - The appeal was against the refusal of the Council to grant planning permission for demolition of two no. existing bungalows and provision of single replacement dwelling.
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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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The claim is made on the basis of a full claim for costs on a substantive basis.
4. The applicant highlights that the officer's report described that the existing dwellings are surrounded by agricultural fields, which is misleading, and consider that this negatively impacted upon the Council's assessment of the proposal. However, regardless of whether the dwellings were surrounded by fields or by built development, the proposal is in the Green Belt, where development is considered to be inappropriate unless it meets certain exceptions. The exception in this case was that of a replacement building which the National Planning Policy Framework stipulates should not be materially larger than the one it is to replace. The surroundings of the proposal have no bearing on whether this exception is met. As such this would not have impacted the assessment of the proposal, and would not have led to the proposal being found acceptable by the Council, or have avoided the necessity of the appeal.
5. The applicant contends that whilst Lawful Development Certificates (LDC) had been approved relating to extensions and alterations for both 83 Springhill Lane and 85 Springhill Lane (No 85), the officer's report failed to acknowledge the LDC at No 85. This was a material consideration in determining the scheme, and as

such the applicant considers that the fallback position in relation to the proposal was not assessed sufficiently.

6. However, whilst the LDC for No 85 was not explicitly referenced, the officer's report clearly makes reference to extensions to the pair of dwellings, and when totalling the floorspace which could be created utilising permitted development rights in order to assess the proposal in relation to the fallback scheme, it is apparent that the LDCs of both dwellings have been considered. Moreover, the officer's report details the plans on which the assessment of the proposal was based, and plans detailing the drawings submitted under both LDCs are listed. The Council therefore considered the relevance of both LDCs in coming to its decision.
7. The officer's report outlined that the proposal would be 5.52m to the ridge. The applicant contends that as the proposed building would be set into the land, the ridge height would be lower than the existing buildings and the visual impact would be reduced. The applicant considers that this was not acknowledged by the Council. However, the officer's report clearly acknowledged that the proposal had been set in to the land by 0.25m to align the height with the existing dwellings. It recognised that this reduced the appearance of the height of the proposed dwelling, but did not consider this was of a significant amount to resolve the visual or spatial impact on openness. I am confident that the Council therefore considered and acknowledged the height and set down of the proposal in its reasoning.
8. The Council did not specifically consider that the LDCs relating to the existing bungalows would allow for the provision of outbuildings, which it may have been possible to offset in lieu of a larger replacement dwelling. However, guidance contained within the Green Belt and Open Countryside Supplementary Planning Document (2014) is clear that whilst off-setting will be dealt with on a case-by-case basis, generally the off-setting of outbuildings is unlikely to be acceptable to adding significantly to a replacement building. Whilst the off-setting of the outbuildings would have increased the size of the fallback scheme, as would maximising permitted development rights at the rear of the bungalows, this would not have negated the Council's concerns regarding the proposal's greater mass at the roof, which it considered to be the most visible part of the dwelling. By off-setting the outbuildings or considering the potential for further extensions to the rear of the bungalows it is therefore unlikely that the appeal would have been avoided.
9. Whilst I have found that there were very special circumstances which justified allowing the appeal, the consideration of whether the fallback position would be more harmful than the appeal proposal is to some degree a matter of planning judgement. Whilst I do not agree with the Council's decision, the reasons for refusal were substantiated, the fallback position was assessed satisfactorily, and sufficiently robust evidence was submitted to show that it did not apply its judgement in an unreasonable manner, in accordance with advice in the PPG.

Conclusion

10. Unreasonable behaviour resulting in unnecessary or wasted expense has not therefore occurred and an award of costs is not warranted.

L C Hughes

INSPECTOR