
Costs Decision

Site visit made on 23 May 2017

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 July 2017

Costs application in relation to Appeal Ref: APP/W4705/D/17/3170878 Farmhouse, Raines Farm, Glovershaw Lane, Baildon BD16 3AR

- 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 Mrs Elaine Walton for a full award of costs against City of Bradford Metropolitan District Council.
 - The appeal was against the refusal of planning permission for modification to roof and upper floor of farmhouse (Variation 1).
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Decision

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

Reasons

2. Paragraph 30 of the National Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only 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. Paragraph 49 of the Guidance sets out examples of unreasonable behaviour by local planning authorities, including failure to provide evidence to substantiate each reason for refusal on appeal and failing to have regard to government policy or its own adopted policies.
4. The appellant claims that the Council has acted unreasonably as it has not taken account of the Dartford decision¹ and argues that it has therefore failed to take account of the relevant interpretation of the National Planning Policy Framework (the Framework) relating to previously developed land. Instead, it has relied on a policy prepared prior to, and which does not accord with, the Dartford decision or national policy.
5. The Dartford decision does set a legal precedent with regard to the interpretation of the Framework and should be weighed in the overall balance of determining the appeal accordingly. Notwithstanding this, the Council found the proposal to be inappropriate development in the Green Belt by way of the disproportionate additions to the original dwelling and its impact on Green Belt openness. As a result, the Dartford decision and the matters surrounding previously developed land are not determinative in this case. As such, I find the Council's approach to be reasonable in considering the proposal against the

¹ Dartford Borough Council v Secretary of State for Communities and Local Government (CO/4129/2015)

Framework and its own relevant local planning policies and guidance regarding the Green Belt.

6. Given that the proposal concerned the extension and alteration of a single dwelling and that the Council's Householder SPD contains a specific section on development in the Green Belt, it seems to me to be reasonable and appropriate for the Council to refer to it in assessing and determining the proposal. I appreciate that the Rombald's Ridge SPD refers to all development within its character area and therefore has some relevance due to the location of the proposal. However, the Householder SPD specifically deals with the type of development proposed within the Green Belt. As such, the Council has acted reasonably in having particular regard to that document. Furthermore, I accept the point made by the Council that the impacts of larger proposals would be more suited to the landscape character assessment of the Rombald's Ridge SPD rather than the extension of an individual property.
7. The guidance set out in the SPDs may not be entirely relevant or appropriate in all circumstances. Therefore, the Council, or other decision-maker, must assess all relevant planning considerations and determine each case on its own merits. Furthermore, SPDs are not statutory documents but material considerations to which the decision-maker should have regard to and apportion due weight as may be deemed appropriate. It is evident that the Council, as the decision-maker, considered that a detailed assessment against the criteria set out in the Rombald's Ridge SPD was not appropriate in this case. Having regard to the above, I find that the Council was entitled to make a planning judgement with regard to the significance of all relevant material considerations as it deemed appropriate.
8. I note that the appellant points to the Council failing to take account of the consented and adjoining development and the good design requirements of the UDP and draft Core Strategy. Notwithstanding this, the Council's assessment of the scheme as inappropriate development in the Green Belt which would have a harmful impact on Green Belt openness must be given substantial weight. The Council assessed these matters against Policy GB5 and the Framework which deals with the substantive reasons for refusal. Therefore, I find it reasonable that a detailed assessment of the proposal in relation to the landscape character matters was not considered to be substantively relevant or determinative by the Council in this case.
9. Given the Council's assessment of the proposal, I find its reliance on the exceptional circumstances test to be correct and reasonable. The Council has been clear in its approach and assessment of the scheme with regard to the Green Belt and has given clear justification for its decision in its reasons for refusal. Furthermore, it has clearly justified its decision with reference to the Framework and Policy GB5 of the UDP.
10. Consequently, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Andrew McCormack

INSPECTOR