Costs Decision

Site visit made on 24 February 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2020

Costs application in relation to Appeal Ref: APP/G2245/W/19/3242228
Stursdon Farm, Row Dow Lane, Knatts Valley TN15 6XN

- 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 Dr Robert Wickham for a full award of costs against Sevenoaks District Council.
- The appeal was against the refusal of an application for the demolition of the existing dwelling and the erection of a replacement dwelling at Stursdon Farm, Row Dow Lane, Knatts Valley TN15 6XN.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the 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. The applicant submits that the Council has acted unreasonably by failing to engage and respond in a timely manner, whether by email, meeting or otherwise, on a number of occasions in relation to the application. Additionally, the applicant contends that the Council failed to take into account information relating to outbuildings, and to accept amendments to their submission.

4. The Council contend that the applicant was made aware that the outbuildings shown on the appeal site plan drawings would not be included in consideration of the Green Belt proposal set before them. The Council also advised the applicant that the plans dated '1923' would be used for their calculation purposes in respect of the scale and mass of the 'original' dwelling, rather than the 'existing' dwelling and outbuildings on site. Further, that despite an administrative error related to the date on the pre-application letter, that due and timely process was carried out in respect of the application.

5. I note the evidence submitted by both parties regarding the pre-application procedure, the relative timelines and acceptability of the amended plans. However, these were activities that in the main occurred prior to the appeal being submitted. The PPG is clear in that the primary focus of the costs regime in planning appeals is centred on unreasonable behaviour occurring during the appeals process.

6. Although the Council undertook calculations based on the '1923' plan, which the appeal decision found was not necessarily the most accurate approach, and that the appellant used calculations based on the 'existing' dwelling and outbuildings, which were adopted in the appeal decision, the end result of both calculations would constitute inappropriate development in the Green Belt; which planning policy makes clear needs to be justified by very special conditions. An assessment of which was carried out by both the Council and as part of the planning appeal decision. Therefore, irrespective of which approach was undertaken, i.e. consideration of the 'original' or 'existing' building, the fact remains that it was highly likely that an appeal could not have been avoided. Hence, the Council's approach was not unreasonable, and it is unlikely that an appeal could have been avoided.

7. Moreover, notwithstanding the minor administrative error, the Council were carrying out the normal activities associated with a planning application. Therefore, I cannot agree that the Council has acted unreasonably in this case. As such, there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

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

J E JOLLY

INSPECTOR