
Costs Decision

Site visit made on 9 June 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Costs application in relation to Appeal Ref: APP/T2215/W/19/3242807 Woodside, Hook Green Lane, Wilmington DA2 7AJ

- 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 W Taylor for a full award of costs against Dartford Borough Council.
 - The appeal was against the refusal of planning permission for change of use and extension of existing stable block to a 3 bedroom dwelling together with associated alterations to elevations.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, 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. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The applicant states that he was put to unnecessary and wasted expense in making the appeal due to the substantive unreasonable behaviour of the Council. The reasons include: selectively using identified relevant policies as part of the assessment; mis-applying Green Belt policy; factual inaccuracies in evidence; unreasonable grounds of objection; no assessment of Nationally Described Space Standard storage requirement; not determining similar cases in a consistent manner; acting contrary to, or not following, well-established case law; failure to consider use of conditions to overcome objections; and, lack of co-operation.
4. Policy DP7 of the Dartford Development Policies Plan Adopted 2017 (the DDPP) states that the creation of residential dwellings will be permitted *where supported by development plan policies*, amongst other matters. In this case, the appeal site is within the Green Belt where Policy DP22 of the DDPP is applicable. This policy states that inappropriate development in the Green Belt will be resisted in accordance with national planning policy. As can be seen from my decision, I find that the proposal would fail to preserve the openness of the Green Belt and therefore it would be inappropriate development. This is a matter that attracts substantial weight. Other considerations identified in support of the scheme would not clearly outweigh the totality of the harm to

the Green Belt and other harm. The very special circumstances necessary to justify the development therefore do not exist and so it should not be approved.

5. Matters relating to Green Belt openness inevitably involve planning judgement and I find that the Development Control Board report (the DCB report) and the appeal statement substantiate the Council's reasons for refusal. Whereas the Council contends that the proposal would conflict with 4 purposes of the Green Belt, I have found that it would conflict with one. Nevertheless, this is a matter of planning judgment and it is not determinative on the outcome of the appeal.
6. Whilst I appreciate that the applicant does not agree with the outcome of the planning application, the Council were not unreasonable in coming to that decision and they have not unreasonably prevented or delayed the development. Indeed, having considered the appeal, I have concurred with the Council.
7. I appreciate that the Council has granted planning applications for the conversion of buildings to residential in the Green Belt. However, the examples before me are not directly comparable to the appeal scheme and it is a well-established planning principle that applications should be determined on their own individual merits.
8. The use of planning conditions would not have overcome the harm arising from the proposed development, as set out in my decision. Furthermore, there is no substantive evidence before me to suggest that the Council was un-cooperative in its handling of the planning application.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

C Osgathorp

INSPECTOR