



Costs Decision

Site visit made on 14 May 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2020

Costs application in relation to Appeal Ref: APP/J1535/W/19/3243897 Springfield Cottage, Hamlet Hill, Roydon, Harlow CM19 5LD

- 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 & Mrs Guiseppe Schillaci for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for proposed replacement dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellants consider that the appeal was unnecessary and as a result of the Council's unreasonable behaviour in relation to its handling of the application. However, it will be seen from my decision that I have found that the development is inappropriate in the Green Belt and that there are no very special circumstances to outweigh the harm that the scheme would cause. Consequently, the Council has not acted unreasonably by preventing a proposal which should have clearly been permitted.
5. The reasons have been adequately substantiated by the Council in its Officer Report and appeal statement. The Officer Report demonstrates how the proposal would result in an unacceptable form of development as the report has made clear reference to the proposal's impact on the openness of the Green Belt and the impact on the Conservation Area. Whilst I accept that reference was made within the Officer Report to the incorrect exception under paragraph 145, consideration of the report as a whole does include discussion about the volume of the replacement dwelling and its design and impact on the Conservation Area and the reasons for the refusal set out in the decision notice

are complete, precise, specific and relevant to the application. It also clearly states the policies of the Epping Forest District Local Plan Alterations 2006 and the Epping Forest District Local Plan Submission Version 2017 that the proposal would be in conflict with.

6. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
7. There is also reference to the conduct and advice of the Council and its officers during the planning application process. From the evidence presented it appears that there was a delay in communication between the parties during the application process and that a detailed response was only provided by the Council following the issuing of the decision notice. This is regrettable, however it appears that the Council were under considerable pressure to issue a decision on the application and felt that there was insufficient time to undertake further negotiations.
8. Paragraph 012 of the Planning Practice Guidance sets out how meaningful pre-application advice may resolve issues identified at the pre-application stage and/or it may raise new issues that need to be discussed. It is clear that concerns were raised during the initial pre-application advice provided by the Council, however no further discussion was undertaken prior to the submission of the application. I note that the Council have indicated that they are open to discussions on revised proposals and I consider this option was open to the appellant, prior to lodging an appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G. Pannell

INSPECTOR