
Costs Decision

Site visit made on 11 August 2020

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Costs application in relation to Appeal Ref: APP/X1925/W/20/3251426 The White House, Preston Road, Gosmore SG4 7QS

- 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 and Mrs Wright for a full award of costs against North Hertfordshire District Council.
 - The application sought planning permission for Change of use of ancillary building to separate residential dwelling (as amended by drawing 217313DWG001A received 18/01/2017) without complying with a condition attached to planning permission Ref 17/02861/1, dated 25 January 2018.
 - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A-E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority'.*
The reason given for the condition is: *'Given the nature of this development, the Local Planning Authority considers that development which would normally be permitted development should be retained within planning control in the interests of the character and amenities of the area'.*
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) on appeals (paragraph 030) 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. Paragraph 53 of the National Planning Policy Framework (the Framework) advises against the use of planning conditions to restrict permitted development (PD) rights unless there is clear justification to do so. The PPG on conditions states that blanket removal of freedoms to carry out small scale domestic alterations are unlikely to meet the tests of reasonableness and necessity, and it advises that the scope of conditions should be precisely defined.
4. In this case there has not been a blanket removal of freedoms but within classes A to E inclusive on a single property within the Green Belt. The dwelling is modest in size with a rural appearance and sits within open and expansive grounds. My decision found that if permitted development rights were

unrestricted on the appeal site, a significant amount of domestic development could be undertaken and disproportionate extensions and outbuildings have the potential to be inappropriate development and thereby result in harm to the openness of the Green Belt. Other appeal decisions and any lack of restriction of PD rights on neighbouring properties have been given limited weight given the different circumstances involved.

5. The applicant submits that the Council have prevented a development which should clearly have been permitted. However, there is no proposed development before me. The appeal relates to a condition which restricts PD rights, but it does not necessarily follow that any future planning application for domestic extensions, alterations or outbuildings would be rejected by the Council. The condition does not prevent future development but gives the Council a degree of control in assessing whether such development would be inappropriate in the Green Belt.
6. Given the specific characteristics of this site and the surrounding area I find that the Council have not behaved unreasonably in seeking to be given the opportunity to establish the effects of any extensions, alterations or outbuildings on the openness of the Green Belt by way of the submission of a planning application for such proposals.
7. The Council had substantive reasons for refusing the application and adequately justified this in the officer report. I agreed with their concerns, and it follows that I find that the Council had sufficient justification to take the view it did.
8. There has been no failure on the part of the Council to produce evidence to substantiate their reason for refusing the application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Consequently, no award of costs is made.

S Hunt

Inspector