



Costs Decision

Site visit made on 8 December 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2020

Costs application in relation to Appeal Ref: APP/M1595/W/20/3255901 Winfield Heights, Old Hill Avenue, Langdon Hills SS16 6JE

- 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 P Payne and Mrs L Rust for a partial award of costs against Thurrock Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing scout hut, and outbuildings and erection of new dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural and substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other considerations; and vague and generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis.
4. The applicant's costs application is on the basis that the Council has not been consistent in their approach to determining applications at the appeal site. In particular, the question of whether or not the appeal site constitutes previously developed land. I note that the Council's pre-application advice indicated that the site represents previously developed land. This position subsequently changed in the assessment of the planning application, as the Council stated that only the area where the scout hut is sited could constitute previously developed land (and not the outbuildings).
5. I appreciate the applicant's frustration in respect of the Council's apparent change in position. Nevertheless, pre-application advice is given without prejudice and does not bind the Council in its consideration of any future planning application. The pre-application advice was given on the basis of the information that was before the Council at that time and I note the Council's comment that there were no plans/drawings submitted with the pre-application

enquiry to provide a fuller assessment of the scheme. This is reflected in the pre-application letter dated 25 July 2018 which refers to limited information being provided. It seems to me that without detailed information, the Council sought to assist the appellant by setting out broad considerations that would need to be addressed in any planning application rather than commenting on a specific scheme. In any case, costs are only those which are directly related to the appeal process itself and cannot extend to such things as pre-application advice.

6. As can be seen from my decision, I have found that whilst the land subject of the appeal is within the definition of previously developed land, the proposal would cause a loss of Green Belt openness and would therefore constitute inappropriate development in the Green Belt. Consequently, I do not consider that the Council has delayed development which should clearly be permitted. Moreover, I am satisfied that the Council's reason for refusal was sufficiently clear and precise and that the decision to refuse planning permission was based on an adequate analysis of the effect of the proposal on the Green Belt. The assessment of the effect of a proposal on the openness of the Green Belt is inevitably a matter of planning judgement and so I do not find unreasonable behaviour on the Council's part.
7. 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 of costs is not justified and the application should fail.

C Osgathorp

INSPECTOR