



Costs Decision

Site visit made on 16 February 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd February 2021

Costs application in relation to Appeal Ref: APP/H1515/W/20/3262042 Oak Cottage, 550 Rayleigh Road, Hutton, Brentwood, Essex CM13 1SG

- 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 Nick Hagger for a full award of costs against Brentwood Borough Council.
 - The appeal was against the refusal of planning permission for demolition of single storey outbuildings and erection of one single storey residential 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 costs may be awarded against a party who has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal.
3. I have been provided with a copy of a pre-application letter from the Council. This outlines that a dwelling may be acceptable on the site. However, it is clear that this would depend on a significantly reduced bulk and scale from that initially proposed to be similar to existing outbuildings, and on there being no greater impact on openness than the existing. The scale and effect of a proposal would need to be assessed according to the specific circumstances of an application, and I do not find that the Council's advice regarding the potential acceptability of a dwelling on the site was misleading.
4. Turning to the current proposal, the Council's officer report notes that a site visit was not undertaken because of the COVID-19 pandemic. However, it refers to information including site photographs taken in March 2020 and in August 2019 which the Council's evidence indicates coincided with a previous planning application and a pre-application site meeting. I note the applicant's view that a site visit could have taken place, but given this recent history I am satisfied that the Council was suitably aware of the site's context. Moreover, the Council's report includes reference to mature hedgerows around the site, and the evidence before me does not demonstrate that it failed to have appropriate regard to relevant considerations when making its decision.
5. The effect of a proposal on the openness of the Green Belt requires consideration of both the spatial and visual effects of development, but is ultimately a matter of planning judgement. I acknowledge that the Council

advised the applicant following refusal of the planning application that a visual representation of the proposal could be provided. However, it seems to me that this was a genuine attempt to assist the applicant to substantiate his case, and notwithstanding the applicant's evidence, I observed at my visit that it was possible to see the existing outbuildings from outside of the appeal site. In addition, neither screening by boundary vegetation nor increased openness closest to the side of Oak Cottage through removal of the existing garage outbuilding would alter the spatial effect on the openness of the Green Belt resulting from the additional scale of development on the site. Given these factors, I do not find that the Council's concerns regarding the effects of the proposal on the openness of the Green Belt to be unfounded, nor do I consider that it would have been likely to reach a different conclusion had it visited the site during the assessment of the planning application. I do not therefore find that the Council's analysis or conclusions regarding harm to the Green Belt to be unreasonable.

6. The PPG makes it clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage. The costs regime would not therefore extend to the applicant's Landscape Statement which formed part of the planning application, even leaving aside the Council's comments that it did not suggest such an assessment be provided.
7. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, for the reasons given above, the application for a full award of costs is refused.

J Bowyer

INSPECTOR