
Costs Decision

Site visit made on 19 January 2021 by Emma Worby BSc (Hons) MSc

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Costs application in relation to Appeal Ref: APP/G2245/D/20/3260296 5 Hailwood Place, West Kingsdown TN15 6AN

- 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 Hembrough for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for a replacement garage and new orangery.
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Decision

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

Appeal Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. 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.
4. On substantive grounds, the applicant has claimed that the Council have prevented development which should clearly have been permitted having regard to its accordance with the development plan, national policy, and any other material considerations.
5. Policy GB3 of the Sevenoaks District Council Allocations and Development Management Plan (2015) states that residential outbuildings, within the curtilage of the existing dwelling in the Green Belt, will be treated as an extension under Policy GB1 if the proposed outbuilding would be located within 5m of the existing dwelling. The close proximity of the proposed garage to the existing dwelling, would result in it being assessed under Policy GB1, as has been done in the appeal decision, to determine whether the proposal is or is not inappropriate development within the Green Belt. Though there are references to policy GB3 in the officer's report, and it is included in the reason for refusal, the decision does appear to have been made primarily against Policy GB1.
6. Also, though reference is made, in the officer's report, to the size restrictions to outbuildings set out in the Council's Green Belt Supplementary Planning Document (the 'SPD'), it is not made clear in that report that the Council

considered the proposal would conflict with the SPD. Indeed, the SPD is not referenced within the Council's reason for refusal. As such it is not considered that the SPD was a determinative factor in the Council's decision.

7. Notwithstanding the Council's approach to the assessment of the impact of the proposal on the Green Belt, they also found that the garage would harm the character and appearance of the street scene and the AONB. As I concur with them on this issue, it cannot be found that the Council prevented development that should have been permitted.
8. Therefore whilst I note the costs incurred by the appellant in pursuing the appeal, I find that it has not been demonstrated that these have been unnecessary resulting from unreasonable behaviour on behalf of the Council as described in the Planning Practice Guidance. For this reason, an award for costs is not justified.

Conclusion and Recommendation

9. For the reasons given above and having had regard to all other matters raised, I recommend that an award of costs of refused.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis an award of costs is refused.

Andrew Owen

INSPECTOR