The Planning Inspectorate

Costs Decision

Site visit made on 22 March 2021

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Costs application in relation to Appeal Ref: APP/R3650/D/20/3263008
Mariners, 88 Petworth Road, Haslemere GU27 3AU

- 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 Leach for a full award of costs against Waverley Borough Council.
- The appeal was against the refusal of planning permission for the demolition of existing outbuildings and proposed 1.5 storey rear extension.

Decision

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

Reasons

2. The Planning Practice Guidance[1] (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The application was made in writing and although not expressly stated by the applicants, it is clear from the information before me that a claim for a full award of costs is being made.

4. The applicants allege that the Council has behaved unreasonably by delaying the issuing of the decision notice beyond the agreed determination date and not providing adequate communication in response to repeated requests for updates on the status of the planning application; prevented or delayed development which should clearly be permitted having regard to the development plan and national policy; and failed to properly assess the overall impact of the proposal on the Green Belt by making vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.

5. The Council's response was made in writing, confirming the principle challenges.

6. Whilst the planning application was originally due to be determined by 31 July 2020, irrespective of the reason for the time extension, there is no dispute between the parties that there was mutual agreement to extend the determination date until 30 September 2020. Furthermore, the evidence indicates that the applicants received timely responses to emails they sent to

[1] https://www.gov.uk/guidance/appeals

the Council enquiring about the status of the application, right up to 2 days before the decision notice was issued. Therefore, in regard to this matter, I cannot agree that the Council has acted unreasonably.

7. Although the Council's case officer indicated, in an email dated 28 July 2020, that provided the ecological surveys are acceptable to Surrey Wildlife Trust he would 'be writing for approval', it is clear that this recommendation would be subject to review and sign off by the Team Leader who may take a different view.

8. It is acknowledged that the Council's decision to refuse planning permission was at odds with the content of the aforementioned email. However, notwithstanding the change of opinion, the reasons why the Council refused the appeal application are clearly set out in its decision notice, which is complete, precise, specific and relevant to the application. It clearly states that the proposal would represent inappropriate development within the Green Belt and no very special circumstances have been put forward that would outweigh this harm. It also sets out the policies of the development plan and the paragraphs of the National Planning Policy Framework (the Framework) that the proposal would be in conflict with.

9. Whilst the officer report does not explain the reason why no discount can be applied in regard to the floorspace proposed at first floor level, I do not consider this to be an oversight by the Council. As will be seen from my decision, no such discount can be applied in this case and so the fact that the Council have not addressed this within the officer report does not amount to unreasonable behaviour.

10. In terms of the assessment of the proposal on the openness of the Green Belt, it is acknowledged that the officer report does not expressly refer to the evidence that indicates the combined volume of the outbuildings that would be removed is significantly less than the volume of the proposed extension. Nevertheless, the Council acknowledge that the proposal would consolidate the development to one location on the site and although the officer report refers to the existing outbuildings as 'lightweight', in terms of bulk and mass the Council correctly assessed that the demolition of the outbuildings would not offset the additional bulk and mass of the disproportionate addition to the dwelling.

11. The applicants accept that both the spatial and visual impact of a proposal are material to whether a development would have a greater impact on the openness of the Green Belt. Thus, although the Council has only addressed the spatial aspect in so far as the officer report does not explicitly point out that the proposed extension would be screened from most aspects by the existing built form of the dwelling, ultimately this makes no difference to the outcome of the Council's assessment because the proposal would still cause harm to the openness of the Green Belt in spatial terms.

12. The applicants point out that the Council failed to provide any case law during the assessment period of the planning application. The applicants, on the other hand, have referred to case law[2] and an appeal decision[3] which they say

[2] Tandridge DC v SSCLG & Syrett [2015] EWHC 2503 and Surrey Homes Limited v Secretary of State for Environment unreported [2001] JPL 379
[3] Reference: APP/T0355/D/19/3235843

demonstrates that the proposed development can be considered appropriate within a Green Belt setting. However, I note that the cases referred to by the applicants all involve the replacement of buildings within the Green Belt and not, as in this case, the extension of a building within the Green Belt. It cannot be said therefore that these other cases are directly comparable with the appeal proposal. In any event, there is no obligation for the Council to provide case law as part of its assessment of the appeal application, and so its failure in this regard does not amount to unreasonable behaviour.

13. Overall, I am satisfied that the reasons why the Council refused the appeal application, as set out in its decision notice, have been adequately substantiated by the Council in its officer report. It seems clear to me that the Council has demonstrated the necessary interpretation and application of Green Belt planning policies and had regard to the specific material considerations relevant to the application including the relevant section of the Framework.

14. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicants were put to unnecessary or wasted expense.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Andrew Bremford

INSPECTOR