
Costs Decision

Site visit made on 15 June 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2021

Costs application in relation to Appeal Ref: APP/A3655/W/20/3264984 Land on South side of Lock Lane, Pyrford, Woking GU22 8UX

- 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 Woking Borough Council for an award of costs against Mrs T Lewis.
 - The appeal was against the refusal of planning permission for demolition of the existing stables and field shelter and the subsequent erection of a single residential bungalow together with the formation of a new access road to serve the site.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against appellants may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking an award of costs on substantive and procedural grounds.

Substantive

4. The Guidance confirms that an appellant is at risk of an award of substantive costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. One of the situations in which this may occur, as listed in the Guidance, is when the development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. The applicant's view is that, since the proposal clearly represents inappropriate development within the Green Belt, which is contrary to development plan policy, the appeal would have no reasonable prospect of success.

5. I have not been persuaded by the appellant's case, and my decision, which accompanies this cost decision, explains why my reasons for dismissing the appeal include concluding that the proposal would be inappropriate development within the Green Belt. However, notwithstanding this, the appellant has put forward a body of evidence in support of its assertion that the proposal would not be inappropriate within the Green Belt on the basis of criterion g) of Paragraph 149 of the *National Planning Policy Framework 2021* (the Framework).
6. This includes evidence as to why the appellant considers that the appeal scheme would not have a greater impact on Green Belt openness than existing development, with reference to an on-site manage comprising existing built development, comparisons of the relative amounts of existing and proposed building and hard-surfacing, the consolidated nature of the new built development, and the existence of screening vegetation and buildings around the site.
7. The applicant also asserts that the appellant relied on irrelevant evidence to support its appeal by referring to Green Belt approvals elsewhere in the Borough which did not relate to development under Paragraph 149 g) of the Framework. My decision confirms that I concur with the Council's opinion in respect of the relevance of these decisions. However, this formed a small part of the appellant's overall body of evidence, and was not the sole basis of its case in support of the principle of development within the Green Belt. As such, I do not find that the appellant acted unreasonably by including this as evidence.
8. For the above reasons, having regard to the nature of the evidence put forward by the appellant, I am satisfied that it has not acted unreasonably in appealing against the Council's first reason for refusal. Accordingly, and since this would establish the principle of the proposed new dwelling on the site, and this has not been previously tested on appeal, I find that the appellant is entitled to make the current appeal and has not acted unreasonably in so doing.

Procedural

9. The applicant also claims costs on procedural grounds with respect to the appellant's late submission of its appeal statement to the Council on 12 May 2021 which was after the appeal start date of 29 April 2021. The Guidance list of types of behaviour that may give rise to a procedural award of costs against appellants includes delay in providing information, or other failure to adhere to deadlines. In this instance, I note that the appeal submission included three paper copies of the appellant's appeal statement which were sent to the Planning Inspectorate, and that the appellant stated that he did not realise that a copy should also have been sent to the Council.
10. As the appellant did not employ a professional agent to submit the appeal, and subsequently sent a paper copy to the Council, which was received within 4 working days of the request, I find that the mistake by the appellant was quickly remedied. Whilst the Council has stated that this reduced the amount of time it had available to review the appeal submissions, I have not been provided with any cogent evidence that this has amounted to additional costs incurred in defending the appeal. As such, I do not find that the appellant's actions in this respect have resulted in unreasonable behaviour which has

resulted in the Council incurring unnecessary or wasted expense beyond that which typically be expected to be associated with its dealing with the appeal.

Conclusion

11. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR