



Costs Decision

Site visit made on 12 April 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2022

Costs application in relation to:

Appeal A Ref: APP/C1570/W/21/3276589

Appeal B Ref: APP/C1570/W/21/3276590

Land east of Friars Lane, Hatfield Heath, Essex CM22 7AP

- 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 David Worrell for a full award of costs against Uttlesford District Council.
 - The appeal was against the refusal of planning permission for:
Appeal A described as the formation of hardened access to allow all year round planting and maintenance.
Appeal B described as the erection of a fence.
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Decision

1. Appeal A: The application for an award of costs is refused.
2. Appeal B: The application for an award of costs is refused.

Preliminary Matter

3. Although there are two applications for costs before me, I have considered the applications together in this document and may use singular terms in places for the ease of reading.

Reasons

4. National Planning Practice Guidance (the Guidance) advises that costs may only 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 appeals process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
5. The applicant argues that the proposed area of hardened access would not change the character of the land nor raise its levels. Therefore, there would be no harm to the Green Belt which was not considered by the Council on its own merits. With regard to the fence, the applicant states that this would also cause no harm to the Green Belt and was determined against Officer advice. Thus, in both instances, the Council acted unreasonably in reaching their decisions.

6. The site has been the subject of a previous appeal¹ (the previous appeal) which considered a certificate of lawful use or development at the site, which itself included the formation of a hardened access. The Council's delegated report for the appeal before me likened it to the previous appeal development, stating that it has a resemblance to it.
7. Nevertheless, it goes on to consider the proposed development, clearly stating that due to its over engineered appearance it would impact on the openness of the Green Belt, which warranted refusal of planning permission. The previous appeal decision did not consider the effect of the proposal on the Green Belt, and for that reason, I conclude that the Council did indeed consider the planning application for the hardened access on its own merits. Therefore, I am satisfied that the Council gave due consideration to the planning application and unreasonable behaviour has not been demonstrated.
8. The planning application for the fence was refused contrary to the advice of professional officers. This in itself is not unreasonable behaviour as the committee was not bound to accept the officer recommendation provided it could show reasonable planning grounds for taking a contrary decision. Whilst the applicant may not like the approach taken by the committee in reaching its decision, it is for me to consider whether the decision was reasonable and soundly based.
9. From the transcript² provided by the applicant, there is nothing substantive within the document to demonstrate that Members had pre-determined the application before them or that the applicant's presentation had been ignored. However, it is evident that Members had an awareness of the proposed development, where it was to be erected and raised the openness of the Green Belt as a matter of concern, which Officers advised would not be affected by the development.
10. However, it is clear that the decision taken by Members was on the grounds that the proposal before them was development in the Green Belt, outside of development limits. This is reflected in the Council's decision notice which does not refer to openness, but that the proposed fence represented inappropriate development within the Green Belt. Therefore, I am satisfied that the Council gave due consideration to the matters at hand and unreasonable behaviour has not been demonstrated.

Conclusion

11. Based upon the evidence before me and upon reviewing the reasons for refusing planning permission, I am satisfied that the Council gave sufficient consideration to the planning application and unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and an award of costs is not justified.

Graham Wyatt

INSPECTOR

¹ APP/C1570/X/19/3241053

² Appendix h) to Applicant's Written Statement for APP/C1570/W/21/3276590