



Costs Decision

Site visit made on 24 October 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 NOVEMBER 2023

Costs application in relation to Appeal Ref: APP/G5180/W/23/3320387 The Orchard, Rookery Road, Downe, Orpington BR6 7JQ

- 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 Bradshaw for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of planning permission for change of use of existing building to one bedroom dwelling.
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Decision

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

Reasons

2. 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.
3. The appellants contend that the Council has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Furthermore, they consider that the Council has failed to produce evidence to substantiate the reason for refusal on appeal, and that it has made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. However, the main issue in this appeal relates to the consideration of openness and the Green Belt purposes. The consideration of openness includes a significant element of planning judgement, and I am mindful that the proposal would include a degree of enclosure of the site which currently does not exist. The proposal would also introduce residential activity onto an agricultural site, and it is not unreasonable to consider that this could lead to the encroachment of an urbanising form of development into the countryside.
5. Although I have concluded that the proposal would not be inappropriate development within the Green Belt due to the circumstances of the appeal site, the consideration of inappropriateness is not so clear-cut as the appellants suggest. I therefore do not conclude that the Council's consideration of this issue is so without foundation as to represent unreasonable behaviour.
6. The Council's reason for refusal clearly sets out its concerns in respect of the proposal, and it has provided evidence to substantiate this in its Statement of

Case. Given the nature of the Council's concerns, including with regards to domestic paraphernalia within the residential curtilage as well as vehicle movements and parking, it is reasonable for the Council to conclude that these issues could not have been addressed through the use of conditions. Although I have allowed the appeal and I am mindful that the Council's Officer report recommended that the application be approved, the decision taken by the Council's Planning Sub-Committee is not unacceptably vague or without substantiation.

7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR