



Costs Decision

Site visit made on 5 November 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Costs application in relation to Appeal Ref: APP/P2365/W/24/3346809 87 and 89 Ruff Lane, Ormskirk, Lancashire L40 6HA

- 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 J and A N Waddington for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for construction of a new dwelling including landscaping, infrastructure and access works following demolition of the existing properties.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters, such as providing information that is shown to be manifestly untrue or inaccurate, or deliberately concealing relevant evidence. It also includes substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or failure to provide evidence to substantiate the reasons for refusal. This application for costs is made on substantive grounds.
4. The application for costs relates to the alleged failure of the Council to assess the proposal with any objective analysis, not determining similar cases in a consistent manner and by not following established caselaw.
5. The appellant suggests that the Council has made inaccurate assertions about the impact of the proposal, stating that they have focused on the difference between the existing buildings and the proposal in numerical volume. However, the Council have assessed the proposal on the openness of the Green Belt in spatial terms. The Council have also acknowledged that the proposed development is identical above ground to an application previously approved.
6. Nevertheless, there is a focus on the use of numerical calculations to assess the effect on openness by the Council. In doing this, the Council has focused on an alleged spatial harm to the Green Belt. In their officer report, the Council cite an appeal decision which states that basements can be included in a volume calculation. As such, any harm which is found to the openness of the

Green Belt, including the consideration of spatial elements, is inappropriate. Nevertheless, the Green Belt is capable of having visual, as well as spatial aspects. In my assessment, I have found that although the proposal would be larger in purely numerical terms than the buildings which exist within the site, the effect of the basement would have no visual effect or implications on the openness of the Green Belt.

7. It is further suggested that the Council has not determined similar cases in a consistent manner. In my assessment of this allegation, the Council have considered the case at Shakelady Hey (application reference 2023/0062/FUL) in their officer report. In this case, the Council have considered that the very special circumstances which were put forward in that particular example, were found to outweigh the harm to the Green Belt. The very special circumstances discussed in this case, were not. This is a matter of planning judgment.
8. Furthermore, it is alleged that the Council has not followed established caselaw. The legal opinion provided by the appellant discusses an appeal scheme of a similar nature, and whether an increase in the volume of the proposal through the provision of a basement would have a greater impact on the openness of the Green Belt. As previously stated, appeal decisions do state that basements can be included in a volume calculation. In undertaking this calculation, the Council view that this would result in an inappropriate development in the Green Belt. This is a matter of planning judgment.
9. Whilst all parties may not agree on the outcome of the planning application, I consider that the Council have assessed this case in line with planning policy and other material considerations. Whilst I have taken a different view to that of the Council, the evidence does not lead me to conclude that the Council has acted unreasonably.
10. To conclude, I am not persuaded that the local authority acted unreasonably in the substantive matters raised above. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
11. For this reason and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR