

Costs Decision

Site visit made on 2 September 2016

by Peter D Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

**Costs application in relation to Appeal Ref: APP/J4525/W/16/3153157
Land at St Aidan's Terrace, West Herrington, Houghton le Spring DH4 4LZ**

- 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 Mrs Helen McCall for a full or partial award of costs against Sunderland City Council.
 - The appeal was made against the refusal of planning permission for erection of single dwelling.
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Decision

1. The application for a full or partial award of costs is refused.

Reasons

2. 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 or wasted expense in the appeal process.
 3. Paragraphs 47 and 49 of the *Planning Practice Guidance* (PPG) set out what may be considered unreasonable behaviour by the Local Planning Authority with respect to procedural matters in the appeal (paragraph 47) and with regard to the substance of the matter under appeal (paragraph 49).
 4. The appellant's application for costs does not specifically raise procedural matters but does refer to a type of behaviour that is listed in paragraph 47 namely that the Council provided information in its appeal questionnaire that was inaccurate and untrue. Whilst I accept that this is reprehensible behaviour on the part of the Council I am not persuaded that it resulted in unnecessary or wasted expense. It would have been clear to the appellant from the reasons for refusal and the case officer's report, notwithstanding the appeal questionnaire response at question 7A, that the Council did consider the site to be part of the Green Belt.
 5. Regarding the behaviours related to the substance of the matter under appeal the appellant has raised only one – that development has been prevented that should have clearly been permitted having regard to its accordance with the development plan, national policy and other considerations.
 6. In my decision letter on the appeal I set out my reasoning for concluding that, notwithstanding the *Sunderland Unitary Development Plan* (UDP) Proposals Map, taken as a whole the UDP does not change the Green Belt status of the
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appeal site from that established in 1985 in the *Tyne and Wear Green Belt Local Plan*. Accordingly the proposal would be in conflict with both local development plan policy and the *National Planning Policy Framework* regarding development in the Green Belt. Consequently development has not been prevented that should clearly have been permitted. The fact that the UDP Proposals Map is inaccurate is regrettable but the behaviour of the Council in determining the planning application and refusing it for the reasons it gave is not unreasonable.

7. In conclusion, for the reasons given above, I am satisfied that both in respect of the procedural and substantive behaviours set out in the PPG the appellant has not been put to unnecessary or wasted expense in the appeal as a whole as a result of unreasonable behaviour.
8. The appellant has applied for a partial award of costs in the event that the full award of costs is not granted but has not specified any identifiable separate element in the appeal where she considers unreasonable behaviour has led to unnecessary or wasted expense.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the *Planning Practice Guidance*, has not been demonstrated and a full or partial award of costs is not justified.

P. D. Biggers

INSPECTOR