
Costs Decision

Site visit made on 20 December 2016

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 10 January 2017

Costs application in relation to Appeal Ref: APP/H4315/W/16/3158141 Land adjacent to 25 Mill Lane, Rainhill, St Helens, L35 6NH

- 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 Crowney, Duffy, Blenkinsop & Powell for a full award of costs against St. Helens Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for 2 residential dwellings.
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Decision

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

Reasons

2. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. The Council referred to St Helens Unitary Development Plan Policies GB1 and GB2 in its reason for refusal. Policy GB1 refers to deleted Policy GB3 which was also referred to in the Officer Report. As Policy GB3 no longer exists it was an error of the Council to make reference to it in the report. However Policy GB3 was not referred to in the decision notice or pursued in defence of the Council's decision. Therefore, this error was not critical to the Council's case.
 4. Policy GB1 is not "up to date" as it is not consistent with the Framework, notably, in relation to "infill" development. However, Policies GB1 and GB2 have been saved and remain part of the development plan. Therefore, they cannot be simply disregarded or ignored. It is not the case that these policies carry no weight. Furthermore, just because Policy GB1 refers to Policy GB3, this does not mean that Policy GB1 no longer exists.
 5. That said, the Council must take account of the Framework as a material consideration. It is here that the Council's reasoning was flawed because it misinterpreted the comma in Bullet Point 5 as indicating that limited infilling in villages must be under policies set out in the Local Plan. This is wrong. Had the Council understood Bullet Point 5 correctly, it would then have had to go on to make an assessment of whether the proposal constituted "limited infill". It is unfortunate that this assessment did not occur at application stage.
 6. Nevertheless, whilst the Council displayed very poor reasoning in its Officer Report, it substantiated its refusal of planning permission in its appeal statement by explaining why the proposed development did not constitute limited infill and was therefore inappropriate development.
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7. The Council has proposed removing the site from the Green Belt but this has happened following the refusal of planning permission and the emerging St Helen's Local Plan is at an early stage. Therefore, my decision did not turn on this factor and the Council's decision should not have done either.
8. Therefore, as the Council has provided a valid defence for its refusal of planning permission, I am satisfied that the appeal could not have been avoided.
9. In conclusion, I do not find the unreasonable behaviour and unnecessary or wasted expense required for me to make an award of costs. The application for an award of costs fails.

Siobhan Watson

INSPECTOR