
Costs Decision

Site visit made on 21 February 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th March 2017

Costs application in relation to Appeal Ref: APP/W4223/W/16/3163728 Land at Wall Hill Road, Dobcross, OL3 5BH

- 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 Prestigious Homes North West Ltd for a full award of costs against Oldham Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for a resubmission of PA/338555/16 in respect of detailed planning application for erection of 2 no. detached dwellings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that it has failed to adhere to deadlines during the appeal process, and has failed to substantiate both of its reasons for refusal.
 4. PPG identifies a "*delay in providing information or other failure to adhere to deadlines*" as a behaviour that may give rise to a procedural award against a local planning authority. In this case, the Council submitted an appeal statement after the deadline, and for that reason it was not accepted by the Planning Inspectorate. However, as there was no statement for the appellant to respond to, no wasted expense would have been incurred by this. The Council also failed to initially forward the appeal questionnaire and supporting documents to the appellant. However, these were provided once this oversight was realised, which was not unreasonable in my view. Suggested conditions were also set out in the original Officer's Report. Accordingly, the Council's failure to adhere to deadlines has not caused the appellant to incur unnecessary or wasted expense in this case.
 5. In the absence of an appeal statement, the Council has relied solely on the decision notice to substantiate its reasons for refusal. With regards to the first reason for refusal, this states that the development would be in an unsustainable location and would therefore fail to comply with Policy 3 of the Oldham Joint Core Strategy and Development Management Policies (2011). In this regard, it is agreed between the parties that the nearest services and
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facilities are not within 480 metres of the site, which is the distance specified in the policy. Furthermore, the accessibility of a given location is to some extent a planning judgement. Accordingly, despite my finding that the appeal should succeed, I do not consider that the Council acted unreasonably in applying its first reason for refusal.

6. Turning to the second reason for refusal, the Council state that there is insufficient provision for turning within the site so as to enable vehicles to enter and leave in forward gear. The Council considers that this will lead to reversing manoeuvres within the highway to the detriment of traffic flow and highway safety. However, no detailed evidence or analysis has been provided to substantiate that this arrangement would significantly affect traffic flow or prejudice highway safety. Notably, this reason for refusal contradicts the view of the Highway Authority, without any assessment to justify this.
7. PPG lists examples of the behaviour that may give rise to a substantive award of costs against a local planning authority. These include: "*failure to produce evidence to substantiate each reason for refusal on appeal*", and "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis". For the reasons set out above, the Council has clearly failed to substantiate or justify its second reason for refusal. In these circumstances, extra costs were incurred, and a partial award of costs in these specific respects is justified.

Conclusion

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Oldham Metropolitan Borough Council shall pay to Prestigious Homes North West Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against the Council's second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Oldham Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR