



Costs Decision

Site visit made on 15 June 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Costs application in relation to Appeal Ref: APP/V4250/W/20/3258450 Land to south of 116 Lancashire Road, Lowton, Warrington WA3 1LE

- 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 Joe Murphy for a full award of costs against Wigan Metropolitan Borough Council.
 - The appeal was against the refusal of permission in principle for demolition of existing buildings and erection of up to 9 dwellings.
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Decision

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

Reasons

2. 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 PPG¹ also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonable throughout the planning process. Although, costs can be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in consideration of whether or not costs should be awarded.
4. The applicant contends that the Local Planning Authority (LPA) refused to determine the application, or if it does determine it will refuse the application as it does not consider the mechanisms of permission in principle is the correct route for an application of this nature within the Green Belt, which is misunderstood and inconsistent.
5. From the evidence before me, the LPA did not fail to determine the application within the agreed timescale. It appears that the applicant made a pre-judgement incorrectly on this matter and initially made an appeal for non-determination. Even though, they had confirmed in writing by email, stating the following: *"To that end my client has agreed a further extension of time till Tuesday 18th August"*. The Council issued a decision notice on the 18 August 2020.

¹ Paragraph: 033 Reference ID: 16-033-20140306; Revision date: 06 03 2014

6. The PPG is clear that a LPA will be justified in refusing permission where an applicant causes deliberate delay and has been unwilling to agree an extension of time; such behaviour will be taken into account in determining any claim for costs if the applicant then makes an appeal. As such, I find that the LPA did not behave unreasonably in relation to the procedural or substantive matter of failing to determine an application within the time limits agreed.
7. Whilst detailed matters regarding the layout and scale, should be addressed at technical details consent stage, in my view it is not unreasonable for the LPA to consider in general terms whether as a matter of principle a site's location within the Green Belt is suitable for the proposed amount of development of up to nine dwellings. The route of a permission in principle decision² must be made in accordance with relevant policies in the development plan, including material considerations such as the Framework. In this case an assessment was made against development plan Policy CP8 and paragraph 145(g) of the Framework.
8. The PPG, on decision making states that LPA's should draw on relevant existing information sources and tools to support decisions on whether a grant of permission in principle is appropriate.
9. I note the applicant's intentions in the evidence before me, that they have deliberately set out the proposal was for up to 9 dwellings. I do not consider that this has helped with the applicant's case, whereas the emails provided propose lower amounts of net dwellings. Notwithstanding this, the mechanism for permission in principle also includes the principle assessment of the amount of development of which the LPA considered on the number of dwellings put forward within the application proposals.
10. Furthermore, in my opinion, I consider that there was no reason why the applicant could not volunteer additional information to support decision making³, in particular to give more certainty about how many dwellings the site is capable of supporting, in particular both the layout and scale to assist with the assessment of the location in the Green Belt. I acknowledge the topographical survey, however this only sets out the quantitative amount of existing development.
11. Moreover, it appears to me that no formal pre-application engagement and front loading took place. Despite this, the emails set out that the LPA are keen to cooperate to arrive at a potentially acceptable scheme and that they could consider there is support for some form of development at the site.
12. In terms of consistency of decision making, the applicant has referred to other LPA's and appeal decisions, there is limited evidence provided of each of these cases. Although, there may be similarities with the proposals, being that of permission in principle within the Green Belt, they differ in development plan policy, site context and land use. Therefore, I do not consider that the Council acted in any inconsistent manner of decision making of similar cases. This is also set out in the main decision. In any event, the appeal is necessarily determined on its individual merits and on the basis of the evidence before me.

² Paragraph: 011 Reference ID: 58-011-20180615; Revision date: 15 06 2018

³ Paragraph: 043 Reference ID: 58-043-20170728; Revision date: 28 07 2017

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified. Accordingly it is hereby refused.

KA Taylor

INSPECTOR