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## Costs Decision

Site visit made on 20 April 2020

**by C Dillon BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 September 2021**

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### **Costs application in relation to Appeal Ref: APP/W4223/W/20/3265907 Well-i-Hole Farm, Well-i-Hole Road, Greenfield OL3 7HY**

- 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 Chadderton Hall Properties Ltd for a full award of costs against Oldham Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for conversion of existing farmhouse to provide bed and breakfast, renovation and conversion of barn to create 4 holiday flats, erection of new building to include flexible community space, shop and toilet/showers, new 3 bed detached house, tractor shed and ancillary facilities and reconfiguration to provide 15 static caravans and 35 powered pitches at existing camping and caravan site.
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### **Decision**

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

### **The submission by Chadderton Hall Properties Ltd**

2. The applicant advances that the Council changed its position from one of support to one of objection between the pre-application and planning application stage. The applicant also advances that there was a lack of communication during a lengthy determination of the planning application. Had consistent advice been given by the multiple officers involved, the applicant states that they may never have chosen to make significant investment in preparing and submitting the planning application.
3. The applicant asserts that this is unreasonable behaviour by the Council which has led to them to incur additional and unnecessary costs at planning application and appeal stage.

### **The response by Oldham Metropolitan Borough Council**

4. The Council does not accept the applicant's grounds for seeking costs. They confirm that they have acknowledged the delay at planning application stage through the refunding of the planning application fee. They maintain that as there are no agreed notes of the meetings between the main parties, the precise content and context of those discussions is not clear. However, they draw attention to the applicant's statement which acknowledges that they were advised that very special circumstances would need to be demonstrated. Furthermore, the Council states that officers always seek to provide positive assistance but that is not determinative, particularly in cases where a subjective assessment is required, and advice is given without prejudice to the

decision of the Planning Committee. Consequently, the Council asserts that there could have been no overriding expectation that the planning application would be approved and therefore the appeal is not a direct consequence of a legitimate expectation of a positive outcome as a result of the earlier discussions.

5. The Council draws attention to the detailed feedback given prior to their determination, including suggested changes to resolve their concerns, although the applicant requested that the application be determined unchanged. They argue that the decision notice and officer report are based on the relevant material considerations, identify the adverse consequences of the scheme and take the appropriate approach to assessing the proposal. The Council considers that these documents provided the applicant with a route for addressing those concerns other than through the appeal process.
6. Therefore, the Council argues that this appeal directly follows the applicant's own actions. They maintain that additional consideration and costs to justify approval would have been required regardless of whether an appeal was lodged, or a revised scheme was pursued.

### **Reasons**

7. The apparent staff turnover may well have contributed to the Council's actions falling short of the applicant's expectations during the planning application stage and the Council has recognised its failings through refunding the planning application fee. Nonetheless, it is clear that discussions between the main parties did occur both before the planning application was submitted and eventually during its course before the Council's decision was taken. Crucially, the applicant did not exercise their right to make an appeal against non-determination of the planning application, rather they chose to wait for the Council to reach their decision.
8. The discussions that took place were with officers of the Council's planning team and the appeal submission demonstrates the applicant has been supported by an agent who is familiar with planning considerations, including Green Belt. By the applicant's own admission, the requirement to demonstrate exceptional circumstances was made known at pre-application stage. Consequently, although there are no agreed notes or correspondence of those discussions for me to draw upon, there is also no firm basis for me to question the context within which any officer advice was given or the applicant's appreciation of any potential challenges and risks to securing permission for proposed inappropriate development in the Green Belt.
9. Furthermore, it is evident that the applicant was given the opportunity to reconsider their proposals but declined to do so, opting instead for the original scheme to be formally determined. Moreover, the officer report set out the assessment that led to the unfavourable officer recommendation which was endorsed by the Planning Committee. The reasons for refusal cited in the decision notice are clear and are based on that assessment. Significantly, this is consistent with my own assessment.
10. The application of the development plan for an area is to provide both certainty and consistency in decision making. To achieve this, decisions must be taken in accordance with the development plan for an area unless material consideration indicate otherwise. The evidence before me does not

demonstrate a failing in these regards. Furthermore, overall there is no reasonable basis for me to find with any certainty that had the Council's actions been different, then the applicant would have chosen a different course of action which would have negated this appeal and any associated costs incurred.

### **Conclusion**

11. For the reasons given above, I do not find that unreasonable behaviour from the Council on either procedural or substantive grounds, as described in the Planning Practice Guidance (PPG), is evident. Consequently, neither has any unnecessary expense in terms of defending this appeal occurred.
12. As the relevant tests set out in the PPG in respect to the determination of costs applications have not been met, I conclude that an award for costs is not justified.

*C Dillon*

INSPECTOR