



Costs Decision

Site visit made on 20 July 2022

by Helen B Hockenhull BA (Hons) B. PI MRTPI

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

Decision date: 03 August 2022

Costs application in relation to Appeal Ref: APP/M3455/W/21/3285786 Land off Forrister Street. Longton, Stoke-on-Trent ST3 1DQ

- 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 John Wylson Irresistible Properties Ltd for a full award of costs against Stoke-on-Trent City Council.
 - The appeal was against the refusal of planning permission for the construction of up to 9 dwellings at land off Forrister Street, Longton, Stoke-on-Trent.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicant submits that the Council acted unreasonably on substantive grounds. Specifically, it is argued that the Council prevented or delayed a development which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations. The Council also failed to produce evidence to substantiate its reasons for refusal and made references to vague, and generalised assertions about the alleged impacts of the proposal which are unsupported by objective analysis.
4. Council Officers recommended approval of the original planning application stating that it complied with the development plan. The Committee took a different view. Members will have assessed all the material considerations and are entitled to come to a different conclusion than Officers, though this must of course be justified, with reasons for refusal substantiated.
5. The Council argued that the loss of the area of public open space would have significant and detrimental impact on the local community. Whilst I can understand the communities wish to retain this site for recreational use, no evidence has been presented to demonstrate what impact it would actually have on the local community. The Council's Green Space Strategy, part of the evidence base for the emerging local plan, identifies a surplus of amenity greenspace. As I outlined in my decision, the loss of the appeal site would constitute only 0.4% of the available amenity green space in the southern part of the City.

6. The remainder and majority of this large area of open space is to be retained and I am also aware of the availability of other open space in the area which the local community could use. It is therefore unclear how the loss of the appeal site would be detrimental to the local community or how its loss would affect the communities access to local amenity space. I agree with the Council that there is a special set of circumstances in this case, as the appeal site is indistinguishable from the wider area of open space. However, it is pertinent that the site is in private ownership and is not formally designated as public open space.
7. Given the above, I consider that the Council has failed to substantiate this reason for refusal and made vague and generalised assertions regarding the impact of the proposal. In so doing the Council has also prevented or delayed a development which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations. These actions amount to unreasonable behaviour which have led to the applicant incurring unnecessary expense in the appeal process. A full award of costs is therefore justified.

Costs Order

8. 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 Stoke-on-Trent City Council shall pay to Mr John Wylson, Irresistible Properties Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Stoke-on-Trent City 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.

Helen Hockenhull

INSPECTOR