



Costs Decision

Site visit made on 11 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2022

Costs application in relation to Appeal Ref: APP/G4240/W/22/3294983 Land Adjacent 1 Mount Pleasant, Barmhouse Lane, Hyde SK14 3BX

- 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 Andrew Heyes for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against the refusal of outline planning permission for the erection of up to 2 dwellings.
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Decision

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

Reasons

2. The application for an award of costs will be familiar to both parties. Consequently, I shall not repeat the submission in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant seeks an award of costs on the basis of six grounds. These matters relate to planning policy assessment, failure to engage, previously developed land, housing land supply, paragraph 11d) and visual importance of the site. They consider that the Council has failed to engage and grapple with the case presented or make a proper assessment of the planning policy context of the proposed development. The applicant states that the costs sought are the totality of their professionally incurred appeal costs because the appeal would not have been necessary if the Council had exercised its duty properly when determining the application.
4. The Council state that the application was considered and assessed against the development plan and other relevant national and local planning guidance and other material considerations were weighed in the planning balance. Furthermore, the views of consultees and those expressed from within the local community were taken into account. They contend that each of the reasons for refusal are substantiated by evidence to support the assessment that the development of the site could not be supported. The Council does not accept that they have behaved unreasonably and believes it has properly exercised its

development management responsibilities and duties to determine the planning application in a reasonable manner.

5. The Council's rebuttal provides additional information than that set out in the officer's report. Nonetheless, I consider this is to help the Council support their stance in relation to the costs application. The Council's officer's report sets out the reasons they consider the proposed development would not comply with local and national planning policy, including policy OL4.
6. Although I acknowledge that there was extremely limited engagement, I am not satisfied that greater engagement from the Council, and publishing consultation responses or documentation relating to housing land supply, would have resulted in a different outcome given the Council's fundamental concerns. Similarly, given the Council's position, I do not consider that suitable planning conditions would have addressed their objections.
7. The Council's submission sets out why they consider the site does not meet the definition of previously developed land and their five year housing land supply position. In addition, the Council considered paragraph 11d) in the officer's report. Their case also sets out the reasons they consider the site is an important visual green space and the relevance of permitted development rights and certificate of lawfulness.
8. In summary, the Council's officer's report and reasons for refusal were clear and sufficient evidence was submitted to support the Council's stance. The application required an exercise of planning judgement and adequate evidence was submitted to show that the Council did not apply its judgement in an unreasonable manner. The reasons for refusal were not unreasonable. Consequently, I do not consider that the Council has prevented development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations.
9. For the reasons set out above I conclude that, the applicant has not shown that the Council has behaved unreasonably and that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

L M Wilson

INSPECTOR