



Costs Decision

Site visit made on 16 August 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Costs application in relation to Appeal Ref: APP/W4223/W/22/3297988 Woods House, Sugar Lane, Dobcross, Oldham OL3 5NJ

- 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 CP Development for a full award of costs against Oldham Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the erection of three dwellings.
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Of the examples of unreasonable behaviour provided in the PPG, the appellant refers me to vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; failure to produce evidence to substantiate each reason for refusal on appeal; and, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The substance of the appeal relates to the effects of the development on heritage assets. The appellant is critical of the Council's assessment which was reliant on the advice of its heritage advisor and the response of Historic England amongst other things. It seems that the Council's advisor did not enter the site as part of their assessment of the effects of the proposals on the relevant designated heritage assets.
5. Whilst this may have limited first-hand experience of the site, it is notable that the Council's recommending case officer was able to visit the site and record information. Although viewing the site only from the surrounding area could result in a less rigorous assessment, the Council have highlighted its collective approach in arriving at its decision. It states that the assessment was made by several officers having regard to the detailed submissions in support of the

- proposal and its own collected evidence. As acknowledged by the applicant, it is unclear what photographs were subsequently used in the heritage advisor's assessment.
6. I also note that the Council's findings also seem to be consistent with previous decisions and that of a former heritage advisor in consideration of earlier proposals on the site. Accordingly, I am unable to definitively conclude that the circumstances in which the Council reached its decision were tantamount to unreasonable behaviour.
 7. Undoubtedly there is distance between the main parties' stances on the relevant matters. However, in the face of clearly articulated arguments by both parties, I find little evidence of the appellant's claim that the Council has subsequently mischaracterised aspects of the relevant heritage assets, their settings or the contribution of the site to the Conservation Area. Nor has a claimed inadequate understanding of those issues on the part of the Council been demonstrated.
 8. The applicant is critical of the Council's failure to respond to the detailed heritage assessment provided by the applicant in support of the proposal. It suggests that various guidance and best practice has not been followed. However, in meeting the statutory duties under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, I find the Council has adequately described and categorised the extent of harm as simply defined in Paragraphs 199-202 of the Framework.
 9. Although the provision of a measure of the harm within the 'less than substantial' classification might assist in ultimately carrying out the Framework's Paragraph 202 balance, it is pertinent to note that any greater sub-classification does not remove the asset's regarded significant importance or the weight to be attributed to that. The applicant's subsequent criticism in respect of this and the Council's balancing of public benefits, as matters of planning judgement, do not, in my view, constitute unreasonable behaviour.
 10. With regard to the appellant's contention that the site's condition was not sufficiently considered, as I have found, given that the Council had identified harm from the proposed development upon the garden area, any improvement to the site's condition (which is in the applicant's gift to control), is not a strong argument in favour of a development identified to cause harm.
 11. As a development identified to conflict with the development plan and the Framework, I find the Council adequately considered other relevant matters and subsequently defended the stated reason for refusal in its Decision Notice.
 12. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR