



Costs Decision

Site visit made on 30 August 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2022

Costs application in relation to Appeal Ref: APP/C4235/W/22/3292596 White House Farm, Torkington Road, Hazel Grove, Stockport SK7 6NP

- 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 James Williamson and Mr & Mrs Donnelly for a full award of costs against Stockport Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of an existing barn to form 1 no. dwellinghouse, with associated demolition, extension, external alterations, access, parking and curtilage.
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Decision

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

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 against them where there is evidence of 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. The applicants' concerns relate to the weight afforded to Policy H-2 of the Stockport Metropolitan Borough Council Local Development Framework Core Strategy DPD (the CS), the failure to consider a fallback position, the benefits associated with the relocation of an access at the site and the level of communication offered by the Council.
4. The applicants assert that the report to the Planning and Highways Regulation Committee, which made the decision on behalf of the Council, failed to identify the provisions of Policy H-2 of the CS or, therefore, consider it in its determination. It is the applicants' case that this policy, in relation to the Council's strategic approach to the spatial distribution of housing, should be given significant weight and sufficient to override any on-site assessment as to the accessibility of a site.
5. The policy was referenced in the report to the Committee under the heading of 'Policy Principle – Residential'. It concluded that the proposal would be consistent with its requirements. However, I disagree that consideration of the individual case circumstances relating to the nature and safety of that

accessibility should not be considered beyond the strategic approach to housing delivery. It is often the case that policy tensions exist between those of a strategic nature and those requiring more detailed compliance. I find no unreasonable behaviour in that respect.

6. The Council subsequently clearly set out its concerns in relation to accessibility by sustainable travel means. Although these views were not shared by a local committee, the determining committee found that they were sufficient reason to withhold planning permission. Those views were consistent with a previous decision of the Council relating to development on the site.
7. However, the report failed to acknowledge the highway safety benefit to existing site users of the proposal to relocate the vehicular access. Additionally, although it highlighted the benefits of securing a long-term use of the non-designated heritage asset, it failed to inform the Committee of the applicants' claim that the building could be demolished if a long-term use could not be secured. This would result in its entire loss.
8. Notwithstanding that the claimed demolition fallback argument expressed in the applicants' letter of 3 August 2021 might be of limited merit in the circumstances where the building was identified as being capable of conversion, has an existing use and has seen recent maintenance of its structure - including a complete re-roof, it was nevertheless a matter for the decision-makers to consider and to allocate weight in the planning balance.
9. In the absence of reference to those matters in the report, I find that all relevant matters were not before the Committee when it made its decision. In the circumstances of a policy tension, where the 'presumption' applies, and where the planning considerations were otherwise finely balanced, as demonstrated by the Marple Area Committee determination, I find that the omission of those issues was remiss. It was therefore potentially prejudicial to the outcome of the Committee's decision as it was unable to consider all relevant matters in the planning balance.
10. In respect of proactive working, or lack of it, there is little before me to evidence that the level of engagement by the Council was unreasonable. I note reference to discussions in relation to the adjoining land which the applicant proposed to use. However, as the applicants were not able to secure improvements to the pedestrian access, I find there is little to suggest that unreasonable behaviour subsequently occurred on that count.
11. For the reasons above, I find the Council has acted unreasonably and contrary to the basic guidance in the Framework and the PPG. The appellant has been faced with unnecessary additional expense in the appeal. For this reason, and having regard to all other matters raised, an award for costs is therefore justified.

Costs Order

12. 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 the Stockport Metropolitan Borough Council shall pay to Mr James Williamson and Mr & Mrs Donnelly the costs of the appeal proceedings described in the heading of this decision.

13. The applicant is now invited to submit to the 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.

R Hitchcock

INSPECTOR