



Costs Decision

Hearing Held on 4 October 2022

Site visit made on 5 October 2022

by A Caines BSc (Hons) MScTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Costs application in relation to Appeal Ref: APP/N4205/W/22/3291526 Land east of the former Hartleys Farm, Wingates Lane, Westhoughton, Bolton BL5 3LP

- 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 Hollins Homes Ltd for a full award of costs against Bolton Council.
 - The hearing was in connection with an appeal against the refusal of outline planning permission for the development of up to 30 dwellings.
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Decision

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

Preliminary Matters

2. The application for a full award of costs by Hollins Homes Ltd against Bolton Council was also mostly available in writing. With my agreement, the Council provided a written rebuttal after close of the Hearing, to which the applicant responded with final written comments.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may only 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.
4. The application for costs seeks a full award on primarily substantive grounds although there is some overlap with procedural matters.

Procedural

5. The Council's separate Landscape Statement was submitted after the appeal timetable deadline. There is little understandable reason why this occurred. Nonetheless, it was still provided in advance of the Hearing, leaving sufficient time for the applicant to consider it and put forward their views at the Hearing, and no delay was caused. In any event, even if I were to consider that this late submission of evidence were to amount to unreasonable behaviour on the part of the Council, the applicant has not shown how wasted expense was incurred in this respect.

Substantive

6. Whilst the Council's officer report does not contain the same level of analysis as the evidence it brought to the appeal, particularly on landscape/character and appearance, this is not an indication that the Council failed to properly evaluate the application. The officer report and reason for refusal identified what the Council considers to be harmful and the relevant development plan policies with which they found conflict. It was not unreasonable for the Council to supplement its case in relation to the matters which formed part of the refusal reasons in order to substantiate these at appeal.
7. Furthermore, on the evidence before me, the Council took a balanced approach in its decision-making. It reasonably engaged with previous appeal decisions in the Council area and duly applied reduced weight to the conflict with those policies relevant to the supply of housing as a result of a recognised five year housing land supply shortfall. While there is clear disagreement between the parties in this appeal and costs application over the balancing exercise undertaken and overall conclusions reached, it is not unreasonable for parties to draw different conclusions, nor is it unreasonable to disagree on the weight to be given to matters in undertaking the planning balance as these are matters of planning judgement.
8. After carefully considering all the submitted evidence and arguments, I came to the conclusion that the appeal should be dismissed. Consequently, the Council has not acted to prevent development which should have clearly been permitted. It is apparent to me that the Council had legitimate concerns and has provided clear and justified reasons for refusal and substantiated its position on appeal rather than vague, generalised or inaccurate assertions. Accordingly, I find that the Council has not acted unreasonably with respect to the substance of the appeal.

Conclusion

9. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and therefore an award of costs is not justified.

A Caines

INSPECTOR