



Costs Decision

Site visit made on 2 May 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Costs application in relation to Appeal Ref: APP/C4235/W/22/3313484 Land adjacent to Holm Lea, Bridle Road, Woodford SK7 1QN

- 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 Abode Property Development Ltd for a full award of costs against Stockport Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for Erection of two detached dwellings with associated access and landscaping.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. Paragraph 49 of the PPG makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, fail to produce evidence to support each reason for refusal on appeal, or make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant's case for a full award of costs is, in part, on the basis that the Council issued an unsubstantiated refusal contrary to the recommendation of its planning officers. However, the Council Members are entitled, as they did, to come to their own decision on this matter. Nonetheless, if a different decision is reached, the Council has to clearly demonstrate why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The applicant is of the view that the Council Members relied on an out-of-date policy, Saved Policy GBA1.5 of the Stockport Unitary Development Plan Review (2006) and did not give sufficient weight to the more up-to-date Woodford Neighbourhood Plan (2019) (the NP).
6. I found Saved Policy GBA1.5 to be inconsistent with the Framework with regard to limited infilling in villages. However, as a part of the development plan, it is not irrelevant and regard should be had to it, even if that it is to determine that it carries limited weight due to its lack of consistency with the Framework, in accordance with Framework paragraph 219. In that regard I see no evidence of unreasonable behaviour arising from the Council publicising the application as a departure from its development plan.

7. The Committee Minutes represent a very brief summary of the Committee Meeting. On this matter they state: *'That planning permission be refused on the grounds that the proposed development was harmful to the openness of the Green Belt and due to proposed residential purposes, would not be for one of the excepted categories within Saved Policy GBA1.5 'Residential Development in Green Belt'.*
8. I agree with the applicant that this is confusing wording and indeed this only references the single policy highlighted above. However, the Committee Minutes are not the formal written decision of the Council. Indeed, the Council admits that they are not *'...a wholly complete or accurate summation of the resolution of the Area Committee'*. Nonetheless, the wording of the minutes in itself has not led to this appeal, which is made against the reasons for refusal set out in the Council's decision notice.
9. The reason for refusal states: *'The proposed development for residential purposes would not be for one of the excepted categories within Saved Policy GBA1.5 "Residential Development in Green Belt..."*. Although I gave the policy limited weight, I agree that the proposal would not fall within one of the categories of development permitted by that policy.
10. The decision notice goes on to set out that the proposal would also not be one of the *'excepted categories'* within the more up-to-date Policy DEV1 of the NP or paragraph 149 of the Framework. As such, the inclusion of Policy GBA1.5 in a list of policy conflicts as part of the reasons for refusal is not, to my mind, a clear indication of the weight attributed to that policy.
11. Furthermore, the Council clearly sets out in its Committee Report that it considers limited weight should be attributed to Policy GBA1.5. This argument is repeated in its Appeal Statement. On this basis I am satisfied that the Members had sufficient evidence before them in order to make a decision. It is clear to me that they had been made aware of the definition of limited infilling set out at Policy DEV1 and the exceptions set out in the Framework, as well as the lack of consistency of Policy GBA1.5 with the Framework. As such, I am not convinced that the Council Members, in coming to a decision, relied on Policy GBA1.5 or on the premise that there should be no infill in villages. There is no convincing evidence before me that the Members did not attribute appropriate weight to Policy DEV1.
12. It is clearly set out in the Committee Report that the Council could not demonstrate a 5 year supply of deliverable housing sites. Indeed, the Committee Report references paragraph 11 of the Framework and sets out that: *'permission should be approved unless:- The application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the proposed development.'* The relevant paragraph of the Framework is referred to in the reason for refusal and I am therefore satisfied that the Council Members also had regard to this matter in coming to their decision. This is supported by the conclusions in the Council's Appeal Statement.
13. The Committee Report clearly sets out the opinion of its officers alongside consultation responses and other evidence. I am therefore not convinced that Members would have been unable to understand the recommendation that was put to them. Moreover, I am unconvinced that the presentation of the case by an officer who was not the original case officer somehow led to the Members' decision to refuse the application.

14. It is understood that following a change of case officer the Council requested amendments to the scheme and additional information. It is stated by the applicant that this was due to comments received from the group that produced the NP. In this regard I note that the applicant chose to provide that information and those amendments in order to seek a positive outcome. Nothing I have seen has indicated that officers did not seek these details in good faith in order to improve the chances of a positive resolution at the Planning Committee. This is notwithstanding that the Council Members elected to refuse the application despite their inclusion. Ultimately the applicant could have chosen not to make the amendments. I am therefore not convinced that the actions by the Council in this regard represent unreasonable behaviour nor have they caused the applicants to incur unnecessary or wasted expense at appeal.
15. The applicant's final strand to its application for costs relates to the second reason for refusal, which was on the basis of the applicant's failure to make provision for recreation and amenity open space. The Council's policies supported by an SPD require new residential development to make a contribution towards open space provision. For small developments this is by way of a commuted sum payment which is secured through s.106 agreements.
16. The Council sets out that such agreements are not drawn up until it is clear that planning permission will be approved, *'...as to do otherwise would put applicants to potentially unnecessary expense during the application process as well as delaying the issuing of the planning refusal notice'*. I agree that it would be unreasonable to require the applicants to submit a legal agreement despite a recommendation of refusal. Moreover, it is not unusual for an appellant to address a reason for refusal by providing a completed legal agreement following the submission of an appeal.
17. The applicant's response to the Council's second reason for refusal forms a relatively small part of the Statement of Case. It is set out here that the applicant is happy to provide the relevant documentation to secure the contribution by way of a legal agreement. I note that the Council has since worked with the applicant to secure a legal agreement in advance of the determination of this appeal.
18. Even if a completed s.106 had already been produced prior to the determination of the application, an appeal would not have been avoided. I am therefore not convinced that the failure of the Council to enter into a s.106 agreement prior to the determination of planning application has resulted in any unnecessary or wasted expense on behalf of the applicant.

Conclusion

19. For the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Paul Martinson

INSPECTOR