



Costs Decision

Site visit made on 7 June 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Costs application in relation to Appeal Ref: APP/W4325/W/22/3311323 Land south of Burnbrae, Lever Causeway, Storeton CH63 6HT

- 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 John and Ann Cascone for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for outline planning application with all matters reserved for the erection of a single new detached home and associated works.
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Decision

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

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. It is argued by the applicant that the Council incorrectly applied Green Belt policies contained within the National Planning Policy Framework (the Framework) and failed to apply the approach established by the *Julian Wood v SSCLG and Gravesham Borough Council*¹ judgement (Wood judgement); amongst other concerns.
4. The Council correctly identified that the proposed development does not conform with Policy GB2 of the Wirral Unitary Development Plan (including minerals and waste policies) Written Statement (UDP), February 2000.
5. They also indicated that despite the age of the UDP, its policies relating to Green Belt correspond with the objectives of the Framework. Nevertheless, UDP Policy GB6 and Proposal GB7 are not consistent with the Framework and subsequently neither is UDP Policy GB2, due to their interdependence. UDP Proposal GB7 identifies infill villages and UDP Policy GB6 seeks to restrict infill development within these boundaries. The Wood judgement explains that the boundary of a village defined in a local plan is not determinative for deciding whether a proposal comprises infill development in a village within the Green Belt.
6. The applicant provided copies of the Wood judgement to the Council during the determination of the planning application and included it as part of their

¹ *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195

documents at appeal. The Council have not sought to explain why the application of UDP Policies GB2 and GB6 were consistent with the findings of the Wood judgement and subsequently the Framework.

7. Although the Council has quoted a specific policy from the adopted development plan within their reason for refusal, this policy is not consistent with the Framework. Also, the Council has not provided evidence to substantiate why the appeal site would not be within the village in light of the findings of the Wood judgement. Instead, the Council has relied on village infill boundaries, which are identified as not being determinative within the judgement. Therefore, the Council has acted unreasonably as they have failed to produce evidence to substantiate the reason for refusal on appeal.
8. As the Council has not explained why they consider the site to be outside of a village, following the approach set out within the Wood judgement, I have no evidence to suggest they would have come to a different conclusion to the appeal decision. The applicant has therefore incurred unnecessary expense in pursuing this appeal, as the Council should have granted planning permission by concluding that the UDP policies were not consistent with the Framework and the appeal proposal constitutes limited infilling within a village.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

10. 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 Wirral Metropolitan Borough Council shall pay to John and Ann Cascone, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wirral Metropolitan Borough 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

J Hobbs

INSPECTOR