
Costs Decision

Hearing held on 12 July 2023

Site visit made on 12 July 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2023

**Costs application in relation to Appeal Ref: APP/P2365/W/23/3319391
Sandyways Farm, Hoscarr Moss Road, Lathom, Lancashire L40 4BG**

Decision

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

The submissions for Miss M Gorst

2. The application for costs was made in writing prior to the Hearing and it is therefore not necessary to repeat this in any detail. However, the thrust of the applicant's case is regarding the Council's failure to take into account a previous appeal decision¹ on a nearby site, in its assessment of the proposed development.
3. The following additional points were made orally at the Hearing.
4. The applicant's understanding is that the first reason for refusal has been conceded which is the main reason for the application of costs. The applicant therefore considers that very special circumstances should be accepted under paragraph 80 of the National Planning Policy Framework (the Framework).

The response by West Lancashire Borough Council

5. The response was made at the Hearing in writing and contends that the cited appeal decision is not directly comparable to the appeal site, and that the proposal would still represent an unjustified new dwelling in the Green Belt.
6. The following additional points were made orally at the Hearing.
7. The Council concede that the term 'isolated' was misused in the first reason for refusal, but that it is still market housing outside of the settlement boundary under Policy RS1 of the West Lancashire Local Plan 2012-2027 Development Plan Document 2013 (the Local Plan).

Reasons

8. 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. The PPG also states that local planning authorities are at risk of an

¹ APP/P2365/W/22/3291480

award of costs if they fail to produce evidence to substantiate each reason for refusal or if they rely on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. Local planning authorities are also at risk of an award of costs for not determining similar cases in a consistent manner.

9. I found the evidence within the Council's planning officer report and decision notice to adequately articulate its objection to the scheme in Green Belt terms. It took into account the wider context of the area, other considerations, and the relevant policies of the development plan and the objectives of the Framework. The Council also sufficiently supported its stance, in this respect, at the Hearing. As such I am satisfied that the Council has provided adequate evidence to substantiate this reason for refusing planning permission.
10. Nonetheless, given the findings of the appeal decision¹, the Council withdrew its first reason for refusal at the Hearing, concerning whether the proposal represented an isolated dwelling in the countryside. Whilst the appeal decision¹ related to development that would not be inappropriate in the Green Belt, so is not directly comparable to the proposal, it was on a land that is only around 500 metres away from the appeal site. The Inspector found that the site would not be 'isolated' for the purposes of paragraph 80 of the Framework. In that respect, the Inspector also concluded that it was in a suitable location for new residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of local and national planning policy, including Local Plan Policy RS1.
11. I have detailed in my appeal decision letter why very special circumstances required to justify the development have not been demonstrated. However, the appeal decision¹ is something that the Council should have been aware of at the time of assessing the planning application. They also failed to submit a statement of case prior to the Hearing to explain their position in this respect. As such the Council inadequately substantiated its first reason for refusal and the applicant's costs in mounting this part of the appeal were unnecessarily incurred. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a partial award of costs is 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 West Lancashire Borough Council shall pay to Miss M Gorst, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the issue of whether the proposal represented an isolated dwelling in the countryside.
13. The applicant is now invited to submit to West Lancashire 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.

Mark Caine INSPECTOR