Costs Decision

Site visit made on 24 July 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2024

Costs application in relation to Appeal Ref: APP/M0655/W/24/3340278
North View, Stretton Road, Warrington WA4 4NP

- 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 Stephen Farthing for a full award of costs against Warrington Borough Council.
- The appeal was against the refusal of planning permission for 'proposed development of 9 detached houses and formation of access from Stretton Road'.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses.

3. The applicant seeks costs against the Council on substantive grounds. It is the applicant's contention that the Council acted unreasonably by failing to give significant weight to the emerging Warrington Local Plan (LP) having particular regard to the proposed removal of the site from the Green Belt. It is claimed that the Council failed to produce evidence to substantiate the reasons for refusal on appeal; made vague, generalised or inaccurate assertions about the proposal's impact; and prevented and delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

4. The planning application was refused by the Council in September 2023 when the statutory development plan for the area was the Warrington Local Plan Core Strategy (2014). The appeal site was within the Green Belt at that time.

5. Emerging LP Policy GB1 proposed to remove land from the Green Belt, including the site. The applicant claims that, as the Inspector raised no proposed main modifications in terms of Green Belt release for this site, there was no reason to suggest how further consultation on these modifications would have altered this position. With the adoption of the LP, the site was removed from the Green Belt.

6. Although at the time the application was refused the emerging LP was at an advanced stage, the Inspector's final recommendation was not received until after the application had been refused and the LP was not adopted until December 2023. It could not be guaranteed that the site would be removed from the Green Belt as this matter was for the full Council to formally agree.

7. Given the emerging LP was still in examination, remained to be adopted and would have still been subject to a period for legal challenge, the degree of weight to be given to the emerging LP was one for the decision maker in accordance with paragraph 48 of the National Planning Policy Framework. As such at the time of the decision it may have been reasonable to ascribe only limited weight to the emerging LP, insufficient to indicate a decision other than in accordance with the extant development plan. The Council set out its position on the weight to be given to the emerging LP and this was a matter of judgement. At appeal the Council has not defended this reason for refusal.

8. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing or delaying a development which should clearly have been permitted, having regard to its accordance with the adopted development plan at that time. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

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

M Ollerenshaw

INSPECTOR