



Costs Decision

Site visit made on 21 March 2025

by **R Major BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Costs application in relation to Appeal Ref: APP/N4205/W/24/3354177

9 Tonge Fold Road, Bolton BL2 6AW

- 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 Bolton Metropolitan Borough Council for a full award of costs against Mr Tom Blair.
 - The appeal was against the refusal of planning permission for proposed residential development.
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Decision

1. The application for an 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. The applicant, who in this case is the Council, claims that the appellant has behaved substantively unreasonably, resulting in unnecessary expense associated with the appeal.
4. The applicant refers to the text in paragraph 053 of the PPG which states that a substantive award of costs against an appellant may occur when *“the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.”*
5. More specifically the applicant states that as part of their own submission they provided a comprehensive statement including reasons and evidence as to why the appeal proposal was not in accordance with the development plan and therefore should not be granted planning permission.
6. Conversely, the applicant claims that the appellant has provided no detailed reasons or evidence to demonstrate how the development complies with local and national planning policy by way of an appeal statement and failed to put forward any material planning arguments to support the appeal. The applicant considers this to represent unreasonable behaviour as in the absence of such a statement the appeal had no chance of succeeding.

7. In response to the above, as part of their appeal submissions the appellant has provided a brief appeal statement, as well as an email sent to the Case Officer and a copy of a letter of complaint that was separately submitted to the Council. Whilst I acknowledge that the submitted statement does not specifically address the reasons for refusal, this is not in itself an example of unreasonable behaviour. I found the submitted letter of complaint provided by the appellant does include some details in respect of the merits of the case and the appellant submitted detailed information and supporting evidence with their planning application. The appellant is within their rights to rely on this information and evidence as part of their appeal.
8. Furthermore, the reasons for refusal on the decision notice, and therefore the main issues in the determination of the appeal, are all matters of planning judgement. Whilst in my decision letter I have reached my own planning judgement on these matters, I do not find that it was unreasonable for the appellant to have the view that the proposal, as originally submitted, accords with the development plan in relation to the reasons for refusal listed on the decision notice.
9. As such, whilst in my decision letter I have reached a different conclusion to the appellant on the appeal proposal's compliance with the development plan, I do not agree with the applicant that the content of the appellant's statement means that the appeal had no chance of succeeding.
10. The applicant has also referred to the failure of the appellant to provide a legal agreement, or a draft version, or any engagement with the applicant in respect of such a legal agreement. The applicant claims that this legal agreement was required to secure affordable housing, the future management and maintenance of the proposed private attenuation tank, and any potential financial contribution towards the repair of the tower of the nearby Church of St Chad.
11. The applicant states that the appellant was aware of the need for such a planning obligation as it was discussed at pre-application stage and it is also referred to in the Officer Report. Without such a legal agreement the applicant claims that the appeal had no chance of succeeding and therefore the failure to provide a legal agreement, or co-operate on its preparation, represents unreasonable behaviour.
12. With regard to this matter, I note the applicant claims that the appeal cannot succeed without a legal agreement. I therefore assume that this also means that the submitted planning application could not have succeeded without such a legal agreement.
13. It is therefore unclear why, if this matter was pivotal to the outcome of both the planning application and any subsequent appeal, the lack of a legal agreement to secure these requirements, and the subsequent conflict with the relevant development plan policies, was not included as a reason for refusal on the decision notice by the Council.
14. Whilst I acknowledge the Officer Report makes mention of the requirement for a legal agreement, I am not aware of the Council's procedures in relation to whether such reports are directly sent to appellants with the decision notice, or how they are made available for public view prior to the appeal being submitted. Furthermore, I was not privy to the pre-application discussions that took place between the applicant and the appellant, and I have not been provided with a copy of any formal pre-application response. I have also not been provided with copies of any direct

correspondence between the applicant and the appellant relating to the requirement for a legal agreement.

15. As such, from the evidence before me I cannot be sure how and when the appellant was made aware that a legal agreement was required to make this development acceptable before the appeal was submitted. Moreover, the fact that the failure to provide a legal agreement, and the subsequent conflict with the relevant policies, was not included as a reason for refusal on the decision notice, means that the failure of the appellant to provide such a legal agreement as part of the appeal does not represent unreasonable behaviour.
16. Ultimately, if the applicant is of the opinion that this matter was so fundamental to the outcome of the planning application and the subsequent appeal, it should have been included as a reason for refusal on the decision notice.
17. In view of the above, I am satisfied that unreasonable behaviour has not been demonstrated and the appellant did not incur unnecessary expense in defending the appeal.

Conclusion

18. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Major

INSPECTOR