



Costs Decision

Hearing held on 7 May 2025

Site visit made on 7 May 2025

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2025

Costs application in relation to Appeal Ref: APP/R4408/W/24/3357259

Land on Northwest side of Barnsley Road, Barnsley Road, Brierley, Barnsley, S72 9LJ

- 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 Paddy Connors for a partial award of costs against Barnsley Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of land to a mixed use of stationing of caravans for residential purposes and keeping of horses.
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Decision

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

The submission of the appellant

2. The application for a partial award of costs was made orally at the hearing. Two grounds were put forward. Firstly, it is submitted that the Council failed to substantiate its second reason for refusal which referred to the site being located outside the urban area, away from the adjacent settlements and local facilities. The applicant submits that the site could not reasonably be considered to be unsustainable. Furthermore, there was no assessment by the Council at application stage or at appeal of the implications of paragraph 13 of the Planning Policy for Traveller Sites (PPTS). The Council only addresses this when asked a specific question at the hearing. If the Council had undertaken such an assessment, it could not reasonably have refused the proposal on that basis.
3. Secondly the applicant alleges unreasonable behaviour due the Council's failure to keep their case under review. Since the appeal was submitted there was a revision to the National Planning Policy Framework (the Framework). There have also been three appeal decisions in Barnsley which considered the grey belt and the Council's GTAA. Both found the GTAA not to be robust and that the Council could not demonstrate a 5-year supply. The Council failed to address these. It is argued that any decision maker, in light of these material considerations, would not have continued to pursue the appeal and would have withdrawn their case.

The response of Barnsley MBC

4. The response was made orally at the hearing. In relation to the second reason for

refusal, the sustainability of the site, the Council explained their position that the village of Brierley lacked a number of facilities, and it was therefore a logical argument that the site's location was unsustainable. Whilst not in written evidence, the Council commented on paragraph 13 of the PPTS orally at the hearing. In considering grey belt issues, paragraph 155 of the Framework includes consideration of sustainability. Therefore, this matter would have been considered in any event. It was not unreasonable to maintain a sustainability reason for refusal.

5. The Council kept their case under review and demonstrated this by reacting to the change in Green Belt policy and the introduction of grey belt in the Framework. The Council further submits that they addressed the implications of the Lisa Smith case with respect to the definition of Gypsies and Travellers and the implications for the GTAA. This matter was appropriate to be debated at the hearing. The Council accepts that the appeal decisions cited by the applicant are material considerations. However, the issue of need does not determine an appeal, it is just one factor. It was not inevitable that the appeal would succeed in light of recent appeal decisions. It was not unreasonable to continue to pursue the appeal.

Reasons

6. 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.
7. In relation to the issue of the site's sustainability, the Council discussed this in their statement of case and provided evidence to support their position. Whilst in determining the appeal, I have not agreed with the Council on this point, putting forward a different view does not amount to unreasonable behaviour.
8. In written evidence, the Council did not assess the development against paragraph 13 of the PPTS despite the Framework in footnote 57 specifically stating that in the case of a traveller site, reference should be made to it in assessing whether the development would be in a sustainable location. I asked the Council for a view on paragraph 13 at the hearing and oral evidence was provided. I acknowledge that the issue of sustainability is also raised in paragraph 155 of the Framework when assessing whether the site forms inappropriate development in the Green Belt. This addresses in the main the environmental aspects of sustainability.
9. The Council's Statement of case considers the PPTS in particular Policies E and H. In so doing some consideration of the economic and social aspects of sustainability were also addressed e.g. access to education and health provision, the benefits of a settled base. Whilst paragraph 13 of the PPTS was not specifically referenced, the wider sustainability issues were considered in the Council's evidence. Whilst it would have been good practice to refer to paragraph 13, most of the issues it raises were in my view addressed in the round. Therefore, I conclude that sustainability was adequately addressed, and unreasonable behaviour has not taken place.
10. Turning to the applicant's second ground, keeping the case under review, the Council in their Statement of Case assessed the Green Belt Policy revisions set out in the revised Framework issued immediately after the submission of the appeal in

December 2024. It clear that they kept their case under review in terms of changing national planning policy.

11. However, the Council did not specifically address the three recent appeal decisions referred to by the applicant which had all concluded that the GTAA was out of date and the Council could not demonstrate 5-year supply of deliverable sites. It would certainly have been appropriate to do so as they form material considerations. It may also have been appropriate for the Council to concede the issue of need unless they had new evidence to put forward not considered in the previous appeals.
12. The applicant argues the Council should have withdrawn their case completely following these appeal decisions. However, need is only one factor and in isolation does not necessarily mean that the appeal would not succeed. There may be other material considerations or policy conflicts which would result in the appeal being dismissed. These were appropriate to be discussed at the hearing. On this basis, it was not unreasonable for the Council to wish to continue to oppose the development.

Conclusion

13. For the above reasons, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. Therefore, the application for an award of costs is refused.

Helen Hockenhull

INSPECTOR