



Costs Decision

Site visit made on 23 July 2025

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2025

Costs application in relation to Appeal Ref: APP/W4325/W/25/3358924

84 Upton Road, Birkenhead, CH41 0DH

- 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 Andrew Merebrook for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a 3-bedroom dwelling to the rear of the property at 84 Upton Road.
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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. There is no doubt that the email received from the Council on 7 May 2025 (the May email), confirming the adoption of Wirral Local Plan 2022-2040 (LP) on 31 March 2025 was outside of the timetable. I also note that the policies referenced¹ in this email were not listed previously by the Council in the Officer Report. Although in the Council's Statement of Case (the SoC), there is reference to notification to the final report being received on 13 March 2025 from the Planning Inspectorate confirming that the LP is sound, subject to main modifications. However, the policies² listed in the SoC are still the same as those in the Officer Report, which I consider a misgiving.
4. It is therefore unfortunate that the policies contained in the May email were not identified in either the Officer Report or the SoC. However, the Council in its notification of the adoption of the LP, did nothing wrong. In fact, had the Council not informed the Planning Inspectorate of the adoption of the LP, an update would have been requested, including any relevant policies during the appeal process, particularly given the status of the LP outlined in the Council's SoC. This would have resulted in a similar process to that which occurred, albeit the May email pre-empted any such Inspector request.
5. As part of the process surrounding the notification adoption of the LP, the Applicant was given the opportunity to provide comments on the same day as receipt of the May email and provided a response a few days later on 11 May 2025, despite being given a deadline until 21 May 2025. Within this response, it was clear that the Applicant disputed the requirements of the LP Policies listed in the May email and

¹ LP Policies WS8, WS10, WD23 and WD24

² LP Policies WS 3, WS 6, WS 7, WS 9, WD 1

that they considered the financial demands of LP Policy WD24 to be unsubstantiated, ill explained, lacking rigour and are reliable/robust. It is clear that the appeal has been determined in relation to the policies contained within the LP. Contrary to the views of the Applicant, it will be seen from my Decision that as there is a net increase in dwellings, I consider the financial contributions sought by the Council for open space and outdoor sports provision as required by LP Policy WD24 to be justified and necessary.

6. Whilst an appeal decision³ and associated costs decision has been supplied by the Applicant to support their views on this matter, it is in a different area and subject to different policies. So, whilst the matter of financial contributions towards off-site open space provision is similar, the different policies from a different Local Planning Authority are sufficient in this instance to establish the cases are not comparable. Whilst I can understand the disappointment of the Applicant, the Council's actions fall shy of unreasonable behaviour, as they complied with procedural requirements and there was no prejudice or unnecessary costs encountered by the Applicant relating to the appeal process.

Conclusion

7. Consequently, I find no procedural nor substantive grounds for an award of costs. I therefore find that unreasonable behaviour as claimed, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.
8. For the reasons given above, I conclude that a full award of costs is not justified.

W Johnson

INSPECTOR

³ APP/Z4310/W/24/3349514