

Costs Decision

Site visit made on 16 May 2017

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 June 2017

Costs application in relation to Appeal Ref: APP/B4215/W/17/3166971 Unit 1, Hillbit House, New Street, Manchester M40 8AW

- 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 Manchester City Council for a partial or full award of costs against Worldwide Waste Management Ltd.
 - The appeal was against the refusal of planning permission for change of use from Use Class B8 to Use Class B2.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance 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 basis for the Council's application is that it has provided advice to Worldwide Waste Management Ltd (WWM) over about a 3 year period in an attempt to secure acceptable operation of the facility but that that advice has not been followed, with the result that permission was refused and the appeal submitted. This has led to work in connection with the appeal that could have been avoided had the advice been followed.
 4. It is evident from the correspondence provided that there were a number of discussions between the parties that took place over a significant period. The Council has demonstrated a willingness to cooperate with WWM to secure an acceptable development. In particular a previous Enforcement Notice was withdrawn to allow WWM to regularise the development by way of submission of a planning application. WWM has not demonstrated to the Council that the development would be acceptable in terms of its appearance or vehicular servicing arrangements. I have found similarly to the Council in my decision on the appeal but WWM did take steps to address the reasons for refusal of the previous application.
 5. Those steps consisted of the proposal for a brick wall along the site frontages and the submission of a Transport Note that demonstrated that vehicular access to the servicing area is achievable, together with further information about servicing arrangements. Details of the height and extent of stored material within the yard were provided. WWM have commenced discussions with Network Rail regarding its use of the land owned by that company or
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- alternatively acquisition of the land. All of these actions indicate a willingness on the part of WWM to secure a development that is acceptable to the Council.
6. Although I note that this process has taken some time and there have been instances of delay in submitting information on the part of WWM there is no evidence before me of any specific actions having been agreed between the parties and then not followed. Much of the previous discussions, while forming part of the background to the application which was subject to the appeal nevertheless related to the previous application and the enforcement action taken by the Council. As such any delay or non-cooperation at that stage did not relate directly to the appeal.
 7. Any previous delays on the part of WWM did not result in the appeal but rather this was a result of the information that was submitted not being acceptable to the Council. WWM was given an opportunity to demonstrate an acceptable servicing arrangement but its failure to do so does not constitute unreasonable behaviour. Indeed the company attempted to address the Council's concerns in this respect.
 8. Since the Council refused permission I understand that WWM has offered to put measures in place to secure acceptable operation of the facility. This indicates a willingness to cooperate and although it may be belated it does not demonstrate that the company's previous behaviour was necessarily unreasonable in terms of the need for the appeal.
 9. For the reasons given I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Nick Palmer

INSPECTOR