
Costs Decision

Site visit made on 31 May 2017

by A Jordan BA Hons MRTPI

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

Decision date: 27 June 2017

**Costs application in relation to Appeal Ref: APP/A4710/W/16/3162646
Lower Hazlehurst Farm, Withens Road, Cold Edge Road, Wainstalls,
Halifax, HX2 7UA**

- 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 Brian Curran for a full award of costs against Calderdale Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for wind turbine 30.5m hub height, 35m diameter rotor with 48m tip height with associated substation.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process¹.
3. The appellant's application relates to the Council's conduct at the site visit. A site visit for the appeal was originally arranged for Tuesday 21 March 2017 at 13.00. The Council did not attend and so the site visit could not proceed. The site visit was subsequently rearranged and was conducted on the 31 May. The appellant is claiming costs for both the expense of conducting 2 site visits for both himself and his agent, as well as loss of earnings for the event and preparing for the site visit. This resulted in wasted time and expense for both the appellant and his consultant, Mr Coates, who was also in attendance.
4. The Council does not contest the claim for costs and accepts that in failing to attend the site visit the appellant was put to unnecessary expense. I concur that the second site visit would not have been necessary had the Council either attended the site visit, or advised the parties in advance that an officer would be unable to attend. I also consider that unnecessary expense would be likely to have arisen as a result of duplication of travel costs, and loss of earnings during the preparation for and attendance at the first event.
5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has been demonstrated and that an award of costs is justified.

¹ Planning Practice Guidance ID16-031-20140306.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Calderdale Metropolitan Borough Council shall pay to Mr Brian Curran, the costs relating to the aborted site visit associated with the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to Calderdale Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Anne Jordan

INSPECTOR