



Ministry of Housing,
Communities &
Local Government

Bob Wollard
Planning and Design Group (UK) Ltd
Pure Offices
Lake View Drive
Sherwood Park
Nottingham
NG15 0DT

Our Ref: APP/M1005/W/18/3198996

29 June 2020

Dear Sir,

**LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 320
APPEAL MADE BY WHEELDON BROTHERS LTD
WHITEHOUSE FARM, 153 BELPER LANE, HILLTOP, BELPER DE56 2UJ
APPLICATION REF: AVA/2017/1128**

APPLICATION FOR AN AWARD OF COSTS

1. I am directed by the Secretary of State to refer to the enclosed letter notifying you of his decision on the above named appeal.
2. This letter deals with Wheeldon Brothers Ltd's application for a full award of costs against the Council. The application as submitted and the response of the Council are recorded in the Inspector's Costs Report (CR), a copy of which is enclosed.
3. In planning inquiries, the parties are normally expected to meet their own expenses, and costs are awarded only on grounds of unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process. The application for costs has been considered in the light of the Planning Practice Guidance, the Inspector's Costs Report, the parties' submissions on costs, the inquiry papers and all the relevant circumstances.
4. The Inspector's conclusions and recommendation with respect to the application are stated at paragraphs CR19-31. The Inspector recommended that a full award of costs is justified on the basis of the Council acting unreasonably by not having

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a position on the appeal, and by not explaining why permission would or would not have been granted.

5. Having considered all the available evidence, and having particular regard to the Planning Practice Guidance, the Secretary of State agrees with the Inspector's conclusions in his report and accepts his recommendations. Accordingly, he has decided that a full award of costs, as specified by the Inspector at paragraph CR32 is warranted on grounds of unreasonable behaviour on the part of Amber Valley Borough Council.
6. Accordingly, the Secretary of State, in exercise of his powers under section 250(5) of the Local Government Act 1972 and sections 78 and 320 of the Town and Country Planning Act 1990, HEREBY ORDERS that the Council shall pay to the developer its costs of the inquiry proceedings, such costs to be taxed in default of agreement as to the amount thereof.
7. You are invited to submit to the Council details of those costs, with a view to reaching agreement on the amount. Guidance on how the amount is to be settled where the parties cannot agree on a sum is at paragraph 44 of the Planning Practice Guidance on appeals, at <http://tinyurl.com/ja46o7n>

Right to challenge the decision

8. This decision on your application for an award of costs can be challenged under section 288 of the Town and Country Planning Act 1990 if permission of the High Court is granted. The procedure to follow is identical to that for challenging the substantive decision on this case and any such application must be made within six weeks from the day after the date of the Costs decision.
9. A copy of this letter has been sent to the Council.

Yours faithfully,

Jean Nowak

Decision Officer
Authorised by the Secretary of State to sign in that behalf