



Costs Decision

Site visit made on 27 June 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Costs application in relation to Appeal Ref: APP/P2365/W/22/3291797 Units 1 and 2 and adjoining land, Holland Business Park, Spa Lane, Lathom, Ormskirk L40 6LN

- 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 H Holland, (H Holland Limited), for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of Unit 2 and adjacent hardstanding for use within Use Classes E(g)/B2 and/or B8, potential to amalgamate Units 1 and 2 and revised hours of operation.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. The applicant has set out a number of grounds for the award of costs which are primarily grounded in substantive matters. Namely, they consider that the Council prevented development which should have been permitted, due to a variety of factors including predetermining the application, making inaccurate assertions regarding and assessments of the proposal, incorrectly applying policy, making a decision that is inconsistent with others and not giving consideration to planning conditions.
4. Having regard to all of the evidence submitted with the appeal, it is clear to me that the Council came to a fully reasoned decision having regard to all information available to it and attributing weight to and balancing all matters. It made a full assessment of the site, its existing use and the wider context. Consideration was also given to the noise impact assessment and other amended details.
5. As can be seen in my appeal decision, the examples of nearby developments were not similar and, moreover, were determined on their own merits. I have also found that, despite the Council's assertions, the development plan did not require the applicant to undertake a comprehensive investigation of alternative sites to accommodate the appeal proposal. This conflict in approach has not been determinative within my decision.

6. It does not seem to me that the Council prevented development which should have been permitted, but rather it objectively analysed the proposal on its own merits taking into consideration the up-to-date circumstances of the development, the context of the site and any other material considerations. Therefore, the Council fully substantiated its position on the proposed development, which was supported by local and national policies.
7. The applicant also asserts that the Council failed to engage with them. This claim relates to the period during the determination of the planning application. The PPG states that costs cannot be claimed for this period, although actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded. I consider that the Council substantiated its case and note that time was given for the appellant to submit a noise assessment. There is no conclusive evidence which suggests that the Council did not cooperate with the applicant.
8. Accordingly, I do not find that the Council behaved unreasonably. Rather, the decision is one which is a matter of planning judgement and there were fundamental disagreements between the parties in relation to the effect of the proposal on the Green Belt, the living conditions of neighbouring residential occupiers and the character and appearance of the area. There is nothing within the evidence to indicate that planning conditions were capable of overcoming the Council's concerns. Thus, the appeal process was unavoidable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison
INSPECTOR