



Department for Levelling Up,
Housing & Communities

7 December 2022

South Lakes Action on Climate Change
(SLACC)

Our Ref: APP/H0900/V/21/3271069

By email:

slaclimatechange@googlemail.com
mmcfeeley@richardbuxton.co.uk

Dear Sir,

LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 and 320
APPLICATION BY WEST CUMBRIA MINING LTD
AT FORMER MARCHON SITE, POW BECK VALLEY AND AREA FROM THE
FORMER MARCHON SITE TO ST BEES COAST, WHITEHAVEN, CUMBRIA
APPLICATION REF: 4/17/9007

APPLICATION FOR A PARTIAL 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 application.
2. This letter deals with the application by South Lakes Action on Climate Change for a partial award of costs against West Cumbria Mining Ltd. The application as submitted and the response of the developer 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 CR52-56 and CR156. The Inspector recommended that a partial award of costs is justified on the basis of unreasonable behaviour.

Planning Casework Unit
Department for Levelling Up, Housing & Communities
3rd Floor, Fry Building
2 Marsham Street
London, SW1P 4DF

Email: PCC@levellingup.gov.uk

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 partial award of costs, as specified by the Inspector at paragraph CR156, is warranted on grounds of unreasonable behaviour on the part of West Cumbria Mining Ltd.
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 West Cumbria Mining Ltd shall pay to South Lakes Action on Climate Change its partial costs of the inquiry proceedings limited to those costs incurred only in reviewing Ecolyse 2 and preparing amendments to rebuttals that were previously based on Ecolyse 1, and limited to legal expense only, such costs to be taxed in default of agreement as to the amount thereof.
7. You are invited to submit to West Cumbria Mining Ltd 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 West Cumbria Mining Ltd.

Planning Casework Unit

This decision was made by the Secretary of State and signed on his behalf