
Costs Decision

Site visit made on 22 November 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 December 2022

Costs application in relation to Appeal Ref: APP/V0728/W/22/3301397 Former South Tees Motor Cross Park, Old Station Road, South Bank TS6 6AQ

- 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 Teestone Group Ltd for a full award of costs against Redcar & Cleveland Borough Council.
 - The appeal was against the refusal of planning permission for the development proposed described as an inert soil facility.
-

Decision

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

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. It is the applicant's case that the Council behaved unreasonably with respect to the first reason for refusal that referred to land protected for the future extension the gypsy and traveller accommodation at the Haven, when this matter had not been raised with regards the earlier application or appeal; and, that the Council agreed to lease the appeal site to the applicant.
4. In their submissions the Council appear to acknowledge the applicant's case with regards the extension to the Haven, suggesting that if costs are to be awarded, these should be limited to additional costs incurred in respect of the second application only. No explanation as to why this important matter was not raised earlier has been presented by the Council.
5. On the basis of the evidence before me it is clear that the applicant entered into extensive dialogue with the Council with regards the original application, subsequent appeal and the resubmitted application. The issue of the land protected in the local plan for the extension of the Haven was only raised at a later stage of this dialogue. I am therefore satisfied that in this respect the Council has behaved unreasonably resulting in the applicant incurring unnecessary expenses with regards the appeal of the first reason for refusal.
6. In accordance with guidance set out in the PPG, I have taken account of the parties' behaviours and actions at the time of the planning application. However, costs can only be claimed in relation to unnecessary or wasted expense at the appeal.

7. With regards the Council agreeing to lease the land to the applicant, subject to planning permission, I note that the Local Planning Authority and the Estates Department of Redcar & Cleveland Borough Council are not one and the same and while a reasonable level of coordination between these two parties would be expected I am satisfied that the Council has not acted unreasonably in this regard.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs, specifically in respect of the first reason for refusal, is justified.

Costs Order

9. 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 Redcar & Cleveland Borough Council shall pay to Teesstone Group Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Redcar & Cleveland Borough Council, to whom a copy of this decision