



Costs Decision

Site visit made on 27 February 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2023

Costs application in relation to Appeal Ref: APP/Q9495/W/22/3305242 Land off Danes Road, Staveley LA8 9PW

- 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 Allan Livesey for a full award of costs against Lake District National Park Authority.
 - The appeal was against the refusal of planning permission for development of office/light industrial units with associated landscaping and parking.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) 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. Paragraph 049 of the PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Whilst the Council is not duty bound to follow advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Planning Officers report had raised no objections to the proposal in terms of its effect on drainage, the Conservation Area and living conditions of neighbouring occupiers. The alleged harm on these matters have not been substantiated other than by means of vague assertions. Little evidence has been put forward by the Council to support the reason for refusals in relation to the main issues.
5. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
6. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and an award of costs is justified.

7. I have dismissed the appeal however, as it can be seen from my Decision, this is on matters relating to nutrient neutrality and its effect on the River Kent Special Area of Conservation. This matter was not a consideration at the time the Council made a decision on the proposed development. This matter therefore does not alter my findings above.

Costs Order

8. 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 Lake District National Park Authority shall pay to Mr Allan Livesey the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to the 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.

Chris Baxter

INSPECTOR