



Costs Decision

Site visits made on 22 March & 19 April 2023

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023

Costs application in relation to Appeal Ref: APP/D2320/W/22/3313413 Land east of Charter Lane, Charnock Richard

- 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 Conlon Holdings Ltd for a full award of costs against Chorley Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 76no. affordable dwellings with access, parking, landscaping and all other associated works (including pumping station).
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) states that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may either procedural relating to process or substantial, relating to the issues arising from the merits of the appeal.
3. This was a case where the Planning Officer concluded that the adverse impacts of the proposed development relating to the conflict with the development strategy and loss in biodiversity would not significantly and demonstrably outweigh the considerable economic and significant social benefits. As such, the proposal was recommended for approval.
4. The Planning Committee took the view that highway safety issues and the conflict with CS Policy 1 meant that the development should be refused when weighing up these matters. After the appeal was lodged Counsel's advice was sought and shared with the Committee at a closed meeting. The reasons for refusal were withdrawn based on this advice.
5. Members have the discretion to make a decision contrary to the recommendation of their officers. However, the Committee has to have a reasonable basis for departing from the recommendation and the reasons for refusal need to stand up to scrutiny on their planning merits.
6. The time period from the submission of the appeal, which was due to be held as an Inquiry, and the withdrawal of the reasons for refusal was a commendably short one of around 15 days. However, the withdrawal was not based on any new evidence or change in circumstances coming to light and in

this regard, it cannot reasonably be attributed to sensible ongoing case management which is encouraged by the PPG.

7. I therefore consider that unreasonable behaviour is demonstrated by the withdrawal of both reasons for refusal which ultimately resulted in preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
8. The appeal was ultimately dealt with by the written representations procedure and the costs incurred by the applicant were less than if the Council had taken longer or continued to defend at an Inquiry. However the applicants incurred the costs associated in the preparation and submission of the appeal.
9. Overall, it is clear that the authority acted unreasonably in refusing planning permission in the first instance, as demonstrated by its subsequent decision not to contest the appeal. None of the matters put forward by the Council in defence of the costs application justify its position.
10. It is considered that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and it is therefore concluded that a full award of costs is justified.

Costs Order

11. 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 Chorley Borough Council shall pay to Conlon Holdings Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Chorley Borough 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.

C Searson
INSPECTOR