
Costs Decision

Hearing Held on 4 April 2023

Site visit made on 4 April 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Costs applications in relation to Appeal Ref: APP/HO250/W/21/3288486 Wansford Station Yard, Great North Road, Stibbington PE8 6LR

- 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).
 - Application A is made by Mr Steve Rattle for a full award of costs against Huntingdonshire District Council.
 - Application B is made by Mr Steve Rattle for a full award of costs against Pure Fuels (North) Ltd.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for
 - planning permission for the change of use of buildings to accommodate a biofuel production unit (B2 use) and a haulage and distribution use within surrounding yard.
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Decisions

Costs Application A:

1. The application for a full award of costs is refused.

Costs Application B:

2. The application for a full award of costs is refused.

Reasons

3. The Planning Practice Guidance (the 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.

Application A

4. The Applicant has cited Article 6 of the Human Rights Act 1998 stating that, because the Council only determined their stance on the appeal on 25th April 2022, the residents only had 6 working days to prepare their case. However, Applicant, with professional representation in combination with other local residents, submitted a plethora of evidence to the Hearing such that I have no substantive evidence before me to suggest that the Applicant or any other third part was disadvantaged in any way and I am satisfied that the Applicant had clear 'equality of arms' in the process.

5. Responding to the application for costs the Council has referred to "Costs awards in planning appeals (England): A guide for appellants (2009" suggesting that third parties to appeals would only be awarded costs in exceptional circumstances. However, this publication was withdrawn on 7 March 2014. The PPG refers to "Local planning authorities, appellants and interested parties"¹ as being able to apply for costs and potentially having costs awarded against them.
6. The main thrust of the Applicant's case is that the Council's actions amount to unreasonable behaviour in respect of both procedural and substantive matters. Reference is made to a significant number of matters including: delays in determining the application and in seeking the submission of an application; not deciding their case 'promptly' once an appeal had been submitted; failure to publish information relating to the appeal; giving inaccurate information in letters notifying third parties of the appeal; providing inaccurate information to Members of the Development Management Committee; failing to ensure that the application was supported by appropriate plans and documents. The Applicant also makes reference to whether Hazardous Substances Consent and Listed Building Consent is required or not and criticises the Council's consideration of this.
7. Many of the Applicant's issues raised in the cost applications refer to aspects of the application rather than the appeal. While costs can only be awarded in relation to unnecessary or wasted expense at the appeal, I have nonetheless taken into account the behaviour and actions of the Council at the time of the planning application when considering whether or not to award costs.
8. While the Applicant details that the Council delayed determining their stance once the appeal was submitted, it has not been suggested that the Council missed any of the deadlines for the submission of evidence to the appeal. As such I do not find that the Council behaved unreasonably in this respect.
9. Turning to the letter referred to by the Applicant, I am aware that there was an issue with the address which led to the postponement of the Hearing. However, this was done in advance of the event and I have no substantive evidence before me to suggest that this led the Applicant to incur any additional costs. With regards the out-of-date legislation referred to in the letter, while regrettable it does not amount to unreasonable behaviour and it has not been demonstrated that it resulted in additional costs being incurred by the Applicant.
10. To conclude, while the Applicant raises numerous issues, the vast majority of which relate to the planning application, of the few matters referring to the appeal I am not satisfied that these singularly or cumulatively amount to unreasonable behaviour on the part of the Council. Furthermore, I have no substantive evidence before me to suggest that the actions of the Council led to the Applicant incurring unnecessary or wasted expense or indeed any expense beyond that which would be expected to engage in appeal proceedings.

Application B

¹ Paragraph: 029 Reference ID: 16-029-20140306

11. The Applicant repeats many of the issues raised in respect of the Application A, again the majority of these relate to the application stage of the planning process rather than the appeal itself and while I have taken these issues into account in reaching my decision, costs can only be awarded in respect of the appeal.
12. Issues raised by the Applicant include: the Hazardous Substances and Listed Building Consent, the supporting information, conflicts with the development plan and acting contrary to and not following legislation, case law, national planning policies and planning practice.
13. While I have dismissed the appeal, it was not unreasonable to it and the submission was well reasoned and supported by appropriate evidence. There will inevitably be disagreement between the parties in the planning process particular with regards with the compliance or otherwise of the appeal scheme and planning policies.
14. Of the matters raised by the Applicant that refer to the appeal, I am not satisfied that these singularly or cumulatively amount to unreasonable behaviour on the part of the against Pure Fuels (North) Ltd.
15. Furthermore, I have no substantive evidence before me to suggest that the actions of the against Pure Fuels (North) Ltd led to the Applicant incurring unnecessary or wasted expense or indeed expense beyond that which would be expected to engage in appeal proceedings.

Conclusions

Costs Application A

16. I have found that the actions of the Council do not constitute unreasonable behaviour and therefore did not result in unnecessary or wasted expense in the appeal process. I conclude that a full award of costs, against the Council, towards the expense of the appeal, is not justified.

Costs Application B

17. I have found that the actions of against Pure Fuels (North) Ltd do not constitute unreasonable behaviour and therefore did not result in unnecessary or wasted expense in the appeal process. I conclude that a full award of costs, against Pure Fuels (North) Ltd, towards the expense of the appeal, is not justified.

Mark Brooker

INSPECTOR