



Costs Decision

Site visit made on 20 February 2024

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2024

Costs application in relation to Appeal Ref: APP/V3310/W/23/3317970 Cannington Enterprises Ltd, Cannington, Bridgwater, Somerset TA5 2NJ

- 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 Cannington Enterprises Ltd for a full award of costs against Somerset Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A, Paragraph A.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the excavation work only to facilitate short-term external bulk BSI PAS 110 fertiliser storage and associated rainwater run-off storage.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that this unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The cost application has two parts. Firstly, the applicant states that the Council acted unreasonably as it misdirected itself in relation to the interpretation of The Town & Country Planning (Permitted Development) (England) Order 2015 (as amended) (the GPDO) even though related legal considerations were clearly set out. Secondly, that the Council acted unreasonably in citing other reasons for refusal in response to e-mailed concerns and contentions forwarded after the Council incorrectly determined the submission.
4. In response to the first part of the cost application, the Council states that rather than representing unreasonable behaviour, in refusing the proposal it was exercising its planning judgement on a matter on which it disagrees with the applicant. With regard to the second part of the cost application, the Council state that its response formed part of a Stage 1 complaint and refers back to the reasons for refusal and provides explanatory information regarding the Council's view and was provided to set out to the applicant why it considers that the proposal does not comply with the permitted development rights.
5. I have found in favour of the Council with regard to both reasons for refusal and it provided detailed evidence and reasoning to support its decision. The Council also clearly clarified as part of its evidence that it was no longer defending its reason in relation to the distance to a protected building and I

note that this did not form a key part of the applicant's case within their planning appeal statement. As a result, the Council did not act unreasonably or misdirect itself in relation to the interpretation of the GPDO with regard to the two reasons for refusal to an extent that caused unnecessary or wasted expense.

6. With regard to the second part of the cost application, the Stage 1 complaint letter expands upon the Council's position in response to correspondence from the applicant. Although I acknowledge that the response introduces the matter of planning unit(s) when the relevant part of the GPDO relates to an agricultural unit, the argument is related to the Council's first reason for refusal detailing why it did not consider the proposed development to be agricultural. As a result, the Council did not seek to introduce or cite other reasons for refusal.
7. In light of the above, I do not find that the Council acted unreasonably in relation to the interpretation of the GPDO and did not cite other reasons for refusal.
8. Accordingly, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
9. The application for an award of costs must therefore fail.

C Rose

INSPECTOR