



Costs Decision

No Site Visit

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26TH JULY 2024

**Costs application in relation to Appeal Ref: APP/Q9495/X/23/3324850
Gaynor Sports Ltd, Market Cross, Compston Road, Ambleside LA22 9BT**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - **Application A** is made by Gaynor Sports Ltd for a full award of costs against the Lake District National Park Authority.
 - **Application B** is made by the Lake District National Park Authority for a full award of costs against Gaynor Sports Ltd.
 - The development for which a certificate of lawful use or development is sought is the installation of two air conditioning units and associated pipework, ducting, cabling and supporting framework.
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Decision

Application A

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

Application B

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

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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.

Application A

4. The applicant claims that the Lakes National Park Authority (Park Authority) had the opportunity and evidence to correct their stance but have refused to alter their position. The applicant has not highlighted any of the reasons for unreasonable behaviour set out in the PPG¹, but this amounts to a claim for a substantive award of costs.
5. I am satisfied that the Park Authority substantiated their case in the Officer Delegated Report and the Statement of Case. As indicated in the accompanying appeal, even when having regard to the additional information submitted with the LDC, it does not alter the fact that the air conditioning units contravene the Enforcement Notice now in force. As such, the Park Authority were not being unreasonable in coming to this conclusion.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

¹ Paragraph 049 Reference ID: 16-049-20140306

Application B

7. The applicant (the Parks Authority) claims that Gaynor Sports Ltd were aware of the Enforcement Notice being upheld by the previous Inspector. Consequently, they should have been in no doubt that the appeal would not succeed, but nonetheless proceeded. Based on the submissions, the applicant is suggesting a substantive award of costs should be awarded.
8. The PPG outlines that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding². Based on the evidence submitted, the appellant was aware of the Enforcement Notice that was served in March 2021. The Parks Authority refused the LDC application due to the active Enforcement Notice being in force. The Officer Delegated Report and the Decision Notice clearly outline that the existing development cannot be lawful as it contravenes the requirements of the Enforcement Notice in force. This position was also set out in a letter from the applicant to the appellant following these decisions on 26 May 2023.
9. I acknowledge that the dismissal of the previous ground (d) appeal against the Enforcement Notice would have been frustrating to the appellant, especially when more information was available. However, the appellant must have understood that the Enforcement Notice had been upheld by the previous Inspector and was in force when the LDC application, and the subsequent appeal, were submitted. Further to this, the appellant was also aware of the provisions of section 191(2)(b) of the 1990 Act, because it is clearly set out in paragraph 3.1.1 of the appellant's Appeal Statement.
10. Therefore, based on the evidence before me, the appellant must have understood that the development could not comply with 191(2)(b) of the 1990 Act, and the appeal had no reasonable chance of succeeding. Despite this, the appellant proceeded with the appeal, resulting in the applicant having to put forward a case to support its decision.
11. As such, unreasonable behaviour resulting in unnecessary or wasted expense as part of the appeal process has occurred in this instance and a full award of costs is therefore warranted.

Costs Order

12. 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 Gaynor Sports Ltd shall pay to the Lake District National Park Authority, 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.

The applicant is now invited to submit to Gaynor Sports Ltd, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M. P. Howell

INSPECTOR

² Paragraph: 053 Reference ID: 16-053-20140306