



Costs Decision

Site visit made on 17 September 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Costs application in relation to Appeal Ref: APP/P2365/W/24/3344994 Vicarage Barn, Southport Road, Scarisbrick, Lancashire L40 8HQ

- 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 Cerberus Cosmetics for a full award of costs against West Lancashire Borough Council.
 - The appeal was against the refusal of planning permission for a proposal described as "full planning application for the erection of a building to house a cosmetic manufacturing facility. (Resubmission of 2020/1092/FUL)".
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses.
3. The applicant considers that the level of communication from the Council during the planning application was inadequate; and that this lack of engagement denied them the opportunity of responding to matters about which the Council continued to have questions and concerns. Furthermore, the applicant considers that the Council failed to act in accordance with the positive and proactive approach set out in the National Planning Policy Framework.
4. The applicant's frustration about the apparent lack of communication from the Council is understandable. However, the Council has consistently maintained its position on the proposal, even following the submission of further information. On the basis of the evidence before me, I have little reason to conclude that agreement would have been reached on the matters of dispute between the parties even had further dialogue been held during the course of the application, and I am not convinced that better communication at that stage would have enabled the appeal to be avoided.
5. The applicant further contends that the Council has failed to substantiate the reason for refusing the application, and made vague, generalised and inaccurate assertions about the proposal. However, the Planning Committee report shows that an analysis of the merits of the proposal was undertaken with regard to the specific circumstances of the site, the development plan,

national policy and other material considerations, including the previous appeal decision. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part. However, it establishes that it is not the case that planning permission should clearly have been granted.

6. It is stated that the Council gave no recognition of the benefits of the development in the planning balance. While the Planning Committee report does not deal with the benefits in detail, it does consider whether there were very special circumstances, and a balancing exercise was undertaken. The report states that the benefits do not outweigh the inappropriateness or harm to the openness of the Green Belt. Therefore, the Council took the benefits of the scheme into account as part of the assessment of the application.
7. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing or delaying a development which should clearly have been permitted, having regard to its accordance with the adopted development plan at that time.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified in this instance.

M Ollerenshaw

INSPECTOR