



Costs Decision

Site visit made on 30 September 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2024

Costs application in relation to Appeal Ref: APP/L3815/W/24/3342676 Ham Farm, Main Road, Bosham, West Sussex PO18 8EH

- 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 Landlink Estates Ltd for a full award of costs against Chichester District Council.
- The appeal was against the refusal of the Council to grant consent, agreement or approval to details required by conditions of a planning permission for extensions to the existing packhouse facility to provide additional packing lines and new staff welfare facilities.

Decision

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

Reasons

2. 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.
3. The PPG further indicates that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. An example of substantive unreasonable behaviour that is cited within the PPG is acting contrary to, or not following, well established case law.
4. In determining the application, the Council found that the submitted details were satisfactory in relation to the requirements of conditions 4, 5 and 6 of the planning permission. Nevertheless, these details were not approved, because the Council also determined that the planning permission had expired.
5. However, the Whitley & Sons Court of Appeal ruling¹ of 1992, is long established case law that the Council should have been aware of. The Council were satisfied the submitted details met the requirements of the conditions. Therefore, and on the basis of this Case Law, and notwithstanding the findings of the Inspector in appeal ref APP/J1535/W/21/3268028, it was unreasonable of the Council to conclude that the details could not be approved.
6. Furthermore, and even after the applicant brought the Whitley and Sons case to the Council's attention as part of its appeal, the Council has continued to defend its position.

¹ F G Whitley & Sons v SSW & Clwyd CC [1992] JPL 856

7. For these reasons the Council has displayed unreasonable behaviour, which has led the applicant to encounter unnecessary and wasted expenses associated with preparing and defending the appeal. A full award of costs is therefore warranted.

Costs Order

8. 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 Chichester District Council shall pay to Landlink Estates 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.

The applicant is now invited to submit to Chichester District 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.

V Simpson

INSPECTOR