
Costs Decision

Site visit made on 25 October 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

**Costs application in relation to appeal: APP/W4325/W/24/3343367
Site of former carpark at the corner of Argyle Street and Bridge Street,
Birkenhead CH41 1AH**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wirral Metropolitan Borough Council for a full award of costs against Birkenhead Commercial Ltd.
 - The appeal was against the refusal of planning permission for four light industrial units and site works.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 council allege that the appellant acted unreasonably by failing to co-operate and by submitting information that was incorrect. It is suggested that there is remarkably little in the twelve page statement or appendices produced by the appellant about the merits of the development. It represents little more than a chronology of events leading to the appeal with direct and personal criticism of the case officer. It is also suggested that many of the comments are inaccurate or irrelevant; and needed addressing given their serious nature, particularly the personal attacks and accusations. It is suggested that the need for the council to respond to allegations should not have been necessary and resulted in wasted time and expense.
4. The appellant's appeal correspondence included significant amounts of detail that was unnecessary and unhelpful; and was irrelevant to the merits of the case. The Guidance does indicate that providing information that is shown to be manifestly inaccurate or untrue may give rise to a procedural award against an appellant. However, the accusations that the council considers to be inaccurate or untrue are not matters that go to the heart of the appeal. Aside from addressing matters relative to the merits of the case, it was the council's choice to address or challenge the other matters raised.
5. The appellant was entitled to appeal against the council's decision and as the proposal benefitted from a number of matters in its favour, the appeal itself could not be described as having no chance of success. Therefore, the council had to respond to the elements within the appellant's statement of case that

were relevant to the merits of the scheme. A full award of costs could not therefore be justified. However, as the council did not need to respond to the submissions that were not relevant to the merits of the case, I am not satisfied that, even if the appellant's behaviour was found to be unreasonable, it resulted in a need for additional expense by the council.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not therefore justified.

Peter Eggleton

INSPECTOR