



Costs Decision

Site visit made on 18 March 2025

by **David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 April 2025

Costs application in relation to Appeal Ref: APP/U2750/W/24/3357329

Birchwood Lodge, Market Weighton Road, Barlby, Selby YO8 5LE

- 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 Condor Engineering Group Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal to grant planning permission for erection of two buildings for use as E(g)(iii) industrial workshops following demolition of an existing building used for B8 storage without complying with a condition attached to planning permission Ref 2021/0349/FUL, dated 11 October 2021.
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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 (the 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 submits that the appellant was fully aware of the restriction on occupancy when the permission was granted in 2021, and that the condition reflected other conditions on the site. However, an unreasonable condition isn't made reasonable simply because the appellant agrees to it. Although the appellant could have appealed against the condition within 6 months of the date of the permission, this does not undermine the appellant's approach in submitting the application which has led to the current appeal.
4. The Council also contends that if the appellant no longer has a need for this building then it shouldn't be built. However, Policy EMP9 of the Selby District Core Strategy relates to existing industrial and business uses rather than existing occupants. On that basis, I have found that the disputed condition would not meet the tests of necessity and relevance to planning as set out in paragraph 57 of the National Planning Policy Framework (the Framework). Furthermore, the condition is also clearly contrary to the Guidance in respect of limiting the use of the proposal to a particular company and would therefore not meet the test of reasonableness of paragraph 57.
5. The appellant also refers to the failure of the Council to engage with the case presented to it. The Council sets out that it reached its decision on the application within the defined target date, and that no discussion with the appellant would have

changed its decision. However, this does not negate my conclusions on substantive issues relating to the planning merits of the Council's decision.

6. Given my conclusions on the Appeal, the Council has failed to produce evidence to substantiate each reason for refusal in relation to the disputed condition. The Council has continued to support its decision despite the substantive evidence provided by the appellant, including in respect of development plan policy as well as the provisions of the Framework and Guidance. In respect of highway safety, it has also refused permission on a planning ground which I have concluded is capable of being dealt with by condition. This represents unreasonable behaviour on behalf of the Council, and the appellant has been put to unnecessary expense in progressing the appeal in response to this.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and 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 North Yorkshire Council shall pay to Condor Engineering Group 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.
9. The applicant is now invited to submit to North Yorkshire 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.

David Cross

INSPECTOR