



Costs Decision

Site visit made on 19 June 2019

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

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Costs application in relation to Appeal Ref: APP/X4725/W/19/3225416 5 Conway Road, Wakefield WF2 0AZ

- 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 Miss Kirsty Child for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal to grant planning permission for a change of use from office (B1) to a day nursery and pre-school (D1) without complying with a condition subject to which a previous planning permission was granted.
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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 appellant states that the Council has prevented a variation to a condition which should clearly have been permitted and has based its decision on inaccurate and unsupported assertions. However, the Council has provided a substantive assessment, including noise monitoring evidence, as part of its statement of case and as can be seen from my Appeal Decision I have given this substantial weight in dismissing the appeal. I therefore conclude that the Council has been able to provide detailed and robust evidence to support its decision.
4. Nevertheless, I have some sympathy with the appellant's position in that the substantive noise monitoring evidence was not provided as part of the consideration of the planning application or prior to the submission of the appeal. However, the appellant has been given suitable opportunity to consider and respond to this evidence as part of the appeal process.
5. Furthermore, in her final comments, the appellant has challenged the Council's noise evidence which indicates that the timing of the submission of the Council's evidence has not led to an appeal which could otherwise have been avoided.
6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not

been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

David Cross

INSPECTOR