



Costs Decision

Site visit made on 10 December 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Costs application in relation to Appeal Ref: APP/E2340/W/19/3238032 Douglas Hall Kennels, Spenbrook Road, Newchurch In Pendle BB12 9JG

- 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 Mr W Lancaster for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of planning permission for the retrospective use of the land edged red on the submitted plan and site plan at Douglas Hall Kennels for a mix of dog breeding and sales.
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Decision

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

Reasons

2. 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 makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal, and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, and/or refuses planning permission on a ground capable of being dealt with by conditions.
4. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full, and indeed, a partial award of costs.
5. The appellant submits that the Council have behaved unreasonably by relying on vague and general assertions on the potential impact of the development, as there is no evidence to suggest that the development would impact highway safety. Furthermore, the appellant submits that the application was refused on a planning ground that could have been dealt with by a condition restricting the number of dogs onsite.
6. Even though the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

7. In this case, the Local Highway Authority had no objection to the application on highway safety grounds, and the application was recommended for approval by the Council officer. However, evidence has been put forward by the Council, in the form of photographs and correspondence, and the Council's reason for refusal is clear, precise and the policy basis has been provided.
8. Whilst in my own planning judgement, having regard to the provisions of the development plan, national planning policy and other relevant considerations, the proposal should have been permitted subject to conditions, the Council have not behaved unreasonably in coming to a different conclusion.
9. The refusal of planning permission therefore does not constitute unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG, and the appellant has not been faced with the unnecessary expense of lodging the appeal.

R Cooper

INSPECTOR