
Costs Decision

Site visit made on 16 December 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Costs application in relation to Appeal Ref: APP/D3315/W/19/3236409 Priory Farm, Birds Farm Lane, Knapp, North Curry, Somerset TA3 6BA

- 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 Ms C McNeil-Regan (Rushton Dog Rescue) for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for the change of use of land and buildings from residential to a mixed use comprising residential and the keeping of rescue dogs.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application for costs states that the Council has acted unreasonably in refusing their application, resulting in an appeal being made. Regarding the noise issue, the Council acted reasonably in fully considering the comments made by neighbours to the site. Although these comments may not have included technical information regarding noise, they still form evidence for the Council and Committee Members to take into consideration. I have no substantive evidence that the Council actively encouraged local residents to object to the proposal.
5. Furthermore, I am also aware that the noise assessment was submitted with the appeal and was not available evidence for the Council before then.
6. I am aware that this was a decision made by the Planning Committee Members against the recommendation of the Planning Officer. I also note that there was not a clear objection from the Environmental Health Officer or Rights of Way Officer. However, making such a decision is the right of the Members to make

at that time. In terms of the decision, as set out in the Decision Notice and the subsequent appeal statement, I found the reasons for refusal and supporting information from the Council to be thorough and reasoned, concluding against planning policy. However, as can be seen from the appeal decision, after considering all the evidence the appeal was allowed, but this does not in itself suggest the Council was unreasonable in the decision they made.

7. The comments made by the Council about potentially aggressive dogs which could attack people was not made with any substantive evidence about the dogs at the appeal site. However, I recognise that dogs have a range of personalities and therefore I do not believe it to be unreasonable to suggest that at some time there could be dogs at the site who could be more aggressive. However, I did not conclude that this was a reason to dismiss the appeal.
8. The possible involvement of an Enforcement Team from the Council is understandable given there was a refused planning application for a use already commenced. However, any correspondence from Planning Enforcement at the Council with the applicant has had no bearing on the decision I have made on the appeal.
9. Overall, whilst I have allowed the appeal the Council has not behaved unreasonably in coming to the decision it did, including the noise issue which led to the first reason for refusal.
10. Whilst I recognise that the applicant is a charity, I have concluded 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 therefore not justified.

S. Rennie

INSPECTOR