



Costs Decision

Site visit made on 20 July 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 August 2020

Costs application in relation to Appeal Ref: APP/X4725/W/20/3250775 22 Manor Drive, Ossett WF5 0LL

- 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 Mrs V Ellis for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for change of use of residential curtilage to operate a cattery with associated erection of cattery buildings and landscaping.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The National Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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 process¹.
3. The applicant submits that the Council ignored the technical advice provided by its officers and consultees and refused the application on the basis of vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis.
4. In response, the Council asserts that members of the planning committee visited the appeal site and considered that the scale and design of the proposed buildings were not appropriate for the residential setting; and that a commercial use on the scale proposed would lead to noise and disturbance issues beyond what would be reasonable within the residential area. The Council affirms that the reason for refusal is specific in detailing the areas of concern expressed by members of the planning committee and the relevant policy conflict, which are expanded upon in its statement of case.
5. The Guidance confirms that a local planning authority is at risk of an award of costs if it makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis².
6. While 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

¹ National Planning Practice Guidance, Paragraph: 030 Reference ID: 16-030-20140306.

² National Planning Practice Guidance, Paragraph: 049 Reference ID: 16-049-20140306.

- on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. I consider that the reason for refusal is specific in stating why the proposal was deemed to be unacceptable and the relevant policy conflict, both in terms of its impact on the character of the site and wider area, as well as on the living conditions of occupiers of neighbouring properties. Furthermore, notwithstanding that I came to a different conclusion in my Decision regarding the proposal's impact on the character of the site and wider area, as a site visit was undertaken by the planning committee, the appraisal of the scale and design of the proposed buildings would have been appropriate and is supported by some analysis of the site and wider area. In these respects, the Council did not act unreasonably.
 8. However, from the evidence before me, neither the minutes of the planning committee, the reason for refusal or the Council's statement of case provides any objective analysis or compelling evidence which substantiates the reasoning that an operation of this nature and limited scale would have a significant detrimental impact on the living conditions of occupiers of neighbouring properties.
 9. There was no objection from Environmental Health Officers in this regard, confirming that, in their experience, 'catteries have little impact in terms of noise or odour that would adversely impact on neighbouring amenity'. Furthermore, the appellant was willing to accept planning conditions in order to mitigate any potential adverse effects.
 10. Taking the above into account, in my judgement, the advancement of generalised assertions about the proposal's impact on the living conditions of occupiers of neighbouring properties by the Council, which is not supported by any objective analysis or justifiable evidence, constitutes unreasonable behaviour. As a result, the appellant has been faced with the unnecessary expense of lodging the appeal.
 11. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

12. 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 the City of Wakefield Metropolitan District Council shall pay to Mrs V Ellis, the costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to City of Wakefield Metropolitan District 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

F Cullen

INSPECTOR