



Costs Decisions

Site visit made on 28 July 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

**Costs application in relation to Appeal A Ref: APP/X4725/W/19/3243395
Land at St Faith's Manor, Off Bevan Grove, Stanley Royd,
Wakefield WF1 3RY**

- 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 Linfit Investments Limited for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for a development described as: Change of use from 5no. townhouses to 10no. townhouses.
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**Costs application in relation to Appeal B Ref: APP/X4725/W/20/3250966
Land at St Faith's Manor, Off Bevan Grove, Stanley Royd,
Wakefield WF1 3RY**

- 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 Linfit Investments Limited for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for a development described as: Change of use from 5no. townhouses to 10no. townhouses.
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**Costs application in relation to Appeal C Ref: APP/X4725/W/20/3250969
Land at St Faith's Manor, Off Bevan Grove, Stanley Royd,
Wakefield WF1 3RY**

- 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 Linfit Investments Limited for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for a development described as: Change of use from 5no. townhouses to 12no. apartments.
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Decisions

Application in relation to Appeal A

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

Application in relation to Appeal B

2. The application for an award of costs is allowed in the terms set out below.

Application in relation to Appeal C

3. The application for an award of costs is allowed in the terms set out below.

Reasons

4. 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.
5. The costs applications have been made in respect of three applications for planning permission that all relate to the same building shell which has previously been erected on the appeal site. Appeals A and B relate to proposals to adapt the building shell to form 10 townhouses, whilst Appeal C relates to adapting the building shell to provide 12 flats. The schemes in Appeals A and B were refused planning permission for essentially similar reasons relating to the quantum of private amenity space to be provided by the development and on the grounds of highway safety. The scheme in Appeal C was refused permission for a reason that related to the effect of the development on the character and appearance of the area and the effect on protected trees in the vicinity of the appeal site. Whilst I have considered each application for costs separately, in order to avoid repetition and duplication, I have dealt with them together except where otherwise indicated.
6. All three costs applications have been made on substantive grounds only. These relate to the prevention or delay of development that should clearly be permitted; refusing permission for reasons that are vague, generalised or make inaccurate assertions about the proposal's impact; and the lack of consistency in decision making.
7. In respect of all three appeals, and regarding consistency in decision making, although several other developments were drawn to my attention, I did not find that these were analogous to the appeal schemes. Consequently, I do not consider that the Council failed to determine similar cases in a consistent manner.
8. I have noted that all three proposals were recommended for approval by the Council's planning officers. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different conclusion is reached, the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
9. In respect of Appeals A and B, the Council have related the first reason for refusal, in respect of the quantum of open space, to relevant planning policies and guidance. Whilst the Council's evidence to support the reason for refusal was not fulsome, it was not so scant that it was not clear what the Council's concerns were or why permission was refused on this basis. Although I have not agreed with the Council's position in respect of Appeal B, it was not unreasonable for the Council to reach the decision that it did, having regard to its planning policies and adopted Supplementary Planning Guidance.
10. With regard to the second reason for refusal in Appeals A and B, relating to highway safety, although reference is made in the reasons for refusal to development plan policies and to the Council's published planning guidance, I have found that the policies cited do not directly relate to highway safety. The Council's evidence did not elaborate on which aspects of the Wakefield Council Street Design Guide 2012, also cited in the reasons for refusal, were offended by the proposals and very little other evidence was put forward. That which was did not demonstrate that the proposed arrangements for access and

parking would be unsafe. Matters of highway safety fall within the remit of the Highway Authority and it would be expected that had there been concerns in respect of conflict between vehicles and pedestrians within the appeal site and surrounding area, they would have been addressed in the Highway Authority's comments. However, the Highways Authority raised no objections to any of the proposed schemes.

11. In this context, there was no planning or highways justification for planning permission to be withheld on this second ground and in doing so the Council has acted unreasonably. As a result, the appellant has had to prepare arguments and submit evidence in support of both appeals in respect of this matter which has resulted in additional, unnecessary, expense. This warrants a partial award of costs in respect of this reason for refusal.
12. In respect of Appeal C, the Council put forward very little evidence to justify the reason for refusal in this case. The evidence contains little in the way of an objective analysis of the character and appearance of the area, or elaboration of how the proposed scheme would be harmful to this. Regarding the effect on protected trees, there is no evidence in respect of this in the Council's main statement of case and the only reference to this matter is within the Council's response to the application for costs. This reference essentially only amounts to an assertion that there will be pressure to remove protected trees and is unsupported by any meaningful reasoning or substantive arguments.
13. Whilst there is some, albeit very brief, evidence with regard to the reason for refusal in Appeal C, this is vague and generalised and falls well short of substantiating or justifying the reason for refusal. I find that it was unreasonable to withhold planning permission on the grounds set out in the reason for refusal. As a result of the refusal of planning permission, the appellant has had to produce and submit evidence to support the appeal, which is an unnecessary expense.
14. I therefore find that in respect of Appeals A and B, the Council's decision to refuse planning permission was not wholly unreasonable. However, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the second reason for refusal, relating to highway safety, and a partial award of costs is justified in each case.
15. In respect of Appeal C, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Orders

Application relation to Appeal A

16. 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 Linfit Investments Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing Reason for Refusal number 2 detailed on the Council's Decision Notice in respect of highway

safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.

17. The applicant is now invited to submit to the 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.

Application relation to Appeal B

18. 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 Linfit Investments Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing Reason for Refusal number 2 detailed on the Council's Decision Notice in respect of highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.

19. The applicant is now invited to submit to the 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.

Application in relation to Appeal C

20. 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 Linfit Investments Limited, 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.

21. The applicant is now invited to submit to the 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.

John Dowsett

INSPECTOR