



Costs Decision

Hearing held on 19 January 2021 and 3 February 2021

Site visit made on 4 February 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 March 2021

Costs application in relation to Appeal Ref: APP/X4725/W/20/3259923 Bridge Gate Farm, Shay Lane, Walton, Wakefield WF2 6PR

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Jeffrey Bernhard for a partial award of costs against Wakefield Metropolitan District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for an outline application for the demolition of commercial buildings, removal of caravan storage and ceasing of commercial use of the site and erection of 4 dwelling houses with all matters reserved except for access and layout. Resubmission of 18/01545/OUT.
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Decision

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

The submissions for Mr Jeffrey Bernhard

2. The costs application was made orally at the hearing. The hearing opened on 19 January 2021 but was adjourned until 3 February 2021. This is because the Council had not given interested parties the full amount of notice in respect of the hearing. In result, professional representation for the applicant was required for an additional day. In addition, the professional representative needed to carry out further preparation in advance of the hearing's recommencement. It is believed that this caused unnecessary expense to be incurred by the applicant.

The response by Wakefield Metropolitan District Council

3. The response was made orally at the hearing. The Council on realising that the notification letters had not been sent, contacted the Parish Council. The Parish Council had made representations to the Council at the planning application stage. Consequently, it was aware of the hearing and had the appropriate details should they have wished to attend proceedings. No other party had made representations on the planning application. The applicant's representative would have needed to have prepared for the hearing in any event and after its adjournment, could have undertaken other work.

Reasons

4. The Planning Practice Guidance (the 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. The PPG (Paragraph 047; Reference ID: 16-047-20140306) cites, amongst other matters, failing to notify the public of a hearing as an example of unreasonable behaviour.

5. The hearing was scheduled for 19 January but was adjourned until 3 February as the Council had not provided interested parties with the appropriate amount of notice of the hearing.
6. Whilst the Council endeavoured to overcome the need for an adjournment by contacting the local Parish Council and provided details of the hearing, I could not be certain that not all interested parties were aware of the hearing. For example, there was a possibility that the occupiers of some nearby properties could have changed between the planning application being determined and the hearing. In consequence, an adjournment of the hearing was necessary.
7. In result, the adjournment required the applicant to engage professional representatives for the recommenced hearing, so that their views could be appropriately articulated. Although the representative would have been able to undertake other tasks on 19 January after the hearing was adjourned, some costs would have been incurred owing to their presence at the appeal proceedings, rather than undertaking other work. As this would have been avoided if the hearing could have taken place in its entirety on 19 January, it amounts to wasted expense.
8. The professional representative would have been expected to prepare for the hearing on 19 January. These costs would be covered as part of the arrangements between the representative and the applicant. However, some additional preparation would be expected in advance of 3 February to enable the representative to refresh their understanding of the pertinent facts prior to the restarted hearing. The time taken for this is an additional unnecessary cost.

Conclusion

9. I therefore conclude that by not notifying the interested parties in the appeal process at the appropriate time, the Council acted unreasonably as it caused the hearing to be adjourned. This caused unnecessary and wasted expense to be incurred by the applicant. In result, a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Section 7(2) and Schedule 3 of the Countryside and Rights of Way Act 2000, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wakefield Metropolitan District Council shall pay to Mr Jeffrey Bernhard the costs of the appeal proceedings described in the heading of this decision, limited to those costs associated with the adjournment of the hearing such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Wakefield Metropolitan 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.

Benjamin Clarke

INSPECTOR