



## Costs Decision

Hearing held on 14 November 2023

Site visit made on 14 November 2023

**by Zoë Franks Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> FEBRUARY 2024**

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**Costs application in relation to Appeal A Ref: APP/R4408/C/22/3290150, 3290151 & 3295176**

**WORSBROUGH EQUESTRIAN, WORSBROUGH RD, WORSBROUGH BARNSELY, STH YORKS, S70 5LN**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr C Smith and Mrs A Smith for a full award of costs against Barnsley Metropolitan Borough Council.
  - The hearing was in connection with appeals against two enforcement notices alleging (i) the material change of use of the Land to the mixed use of residential occupation of a caravan and use of the Land for the storage of horse boxes and trailers and (ii) failure to comply with a condition.
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### Decision

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

### Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 appellants argue that the Council misunderstood the terms of Condition 9 of the 2021 Permission and that there had been no breach of planning control in relation to it. They also argue that Notice 1 which alleged the material change of use was not capable of correction and as such that they had been put to the unnecessary expense of seeking professional guidance to submit this appeal.
4. In response, the Council say that the appellants accept that the element of the unauthorised use alleged of the storage of the trailers and horse boxes had taken place and that the utility building was not even built in accordance with the plan of it submitted during the 2021 Permission application, and that unnecessary or wasted expense must be shown which is not the case here.
5. Costs do not necessarily follow the decision in the appeal but it can be relevant. In this case, I found that the appeals were successful in that the breach in Notice 1 had not occurred as a matter of fact and that the notice could not be corrected without causing injustice. However, this was predicated on the land comprising two planning units, rather than a single unit as argued by both parties. I do not therefore find that the Council had behaved unreasonably as

there had been material changes of use on some of the land caused by the appellants and the Council sought to enforce against this breach.

6. Also whilst I found that there had not been a breach of Condition 9 of the 2021 Permission at the issue date I do not find that the Council acted unreasonably in serving Notice 2. The wording of that condition and the enforcement history is complicated and whilst the relevant dates and timescales were ascertained during the hearing they were not straight-forward, in part due to the fact that the appellant was not a party to the legal challenge in the High Court
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*Zoë Franks*

INSPECTOR