



Costs Decision

Hearing Held on 26 March 2024

Site visit made on 26 March 2024

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2024

Costs application in relation to Appeal Ref: APP/W4705/W/23/3318553 Chestnut Acres, Slaymaker Lane, Oakworth, Bradford BD22 7EU

- 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 Janet Arkwright for a full award of costs against City of Bradford Metropolitan District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the retention of 1no. 22m x 4m single storey sheep stalls and 1 no. 14m x 8m timber stable, along with 1 no. 25m x 4.1m range of animal stalls and 1 no. 25m x 2m chicken/duck, turkey and goose hut, access track and part hardstanding.
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Decision

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

The submissions for Mrs Janet Arkwright

2. The application was made in writing and alleged the following key points:
 - i) There has been unreasonable behaviour by the Council in that it failed to justify its reason for refusal;
 - ii) The Council relied on vague, generalised and inaccurate assertions which are not material to the decision;
 - iii) The Council has prevented or delayed development which should be permitted.

The response by City of Bradford Metropolitan District Council

3. The brief response by the Council is that the reason for refusal has been adequately substantiated and was based on the information presented to the Council on the day of the planning panel meeting (appeal document 3). That information included evidence given by the Appellant. The Council has not failed to evaluate the proposal and it is at liberty to disagree with the advice of its officers. This means that the Council has not acted unreasonably and was not wrong to refuse planning permission.

Reasons

4. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved

- unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. The Council is correct in its response to indicate that elected members do not have to follow the advice of planning officers. Not accepting the advice is not unreasonable in itself. However, the Council must be able to justify its stance and substantiate its reason(s) for refusing planning permission.
 6. In this case the single reason for refusal is based, at least in part, on information presented at the planning panel. The information related to the possibility that the land was also being used as a livery business. I now have information of the situation when the application was determined in February 2023 based on stock movement records. It seems likely to me that the holding was being used for agricultural purposes then, as it is now.
 7. There has been no subsequent information provided by the Council which adds any greater credence to the claims that there is an equestrian use at the premises. Indeed the Council did not provide an appeal statement and relied on verbal evidence at the hearing which largely reiterated the position of the members at the planning panel.
 8. The reason for refusal is indeed vague, using the words *"evidence heard at the Council's Area Planning Panel meeting suggested that the buildings are not solely for agricultural use and include a livery business."* It is incumbent upon the Council to show that the reported use as a livery business was a reasonable position to take. A suggestion of a use is a flimsy basis on which to make a decision. In my judgement the Council has patently failed to substantiate its stance of there being a livery business on the site which would lead to a position of mixed use so negating the exception for agricultural buildings in the Green Belt contained in the National Planning Policy Framework.
 9. I recognise that the Council was heeding the representation both for and against the development when it made its decision, but as Planning Practice Guidance indicates *"local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid material planning reasons."* The Council therefore has a duty to make decisions in an objective manner.
 10. Given the evidence before me I am satisfied that it would have been possible for the Council to ascertain the correct state of affairs on the holding. Indeed the officer's report to the planning panel points out that there was no evidence of a commercial livery business at the site following visits by staff. There is no justification for taking a contrary view based on a suggestion as set out in the reason for refusal. The evidence for that suggestion has simply not been produced.
 11. Taking all the evidence into account it is clear to me that the Council has failed to substantiate its reason for refusal, which is in any case vague and inaccurate. The Council therefore acted unreasonably in refusing planning permission. This resulted in an unnecessary appeal and wasted expense.

Costs Order

12. I therefore 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.

13. 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 City of Bradford Metropolitan District Council shall pay to Janet Arkwright, 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.
14. The applicant is now invited to submit to City of Bradford 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.

Philip Major

INSPECTOR