



Costs Decision

Site visit made on 25 March 2024

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

**Costs application in relation to Appeal Ref: APP/R2330/W/23/3332911
Bold Bark Doggy Day Care, Higher Bold Venture Farm, Haslingden Old
Road, Oswaldtwistle, Lancashire BB5 3RP**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr William Holden for a partial award of costs against Natural England.
- The appeal was against the refusal of planning permission for a portal frame building for exercising of dogs.

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 applicant sets out that there is no indication that Natural England (NE) considered material and new evidence relating to the proposed development. They consider that NE's position is not reasonably substantiated and such advice has resulted in a decision which is not fair or reasonable and fails to reasonably consider material matters that are relevant to the appeal site. Consequently, the applicant states that NE's objection is based on inaccurate assumptions as they did not take into account considerations, such as the lawful position of the site and the existing hard surface area, and the objection has been central to the Council's decision.
4. The PPG sets out that statutory consultees may have costs awarded against them¹. It goes on to state that where a local planning authority has relied on the advice of the statutory consultee in refusing an application, there is a clear expectation that the consultee in question will substantiate its advice at any appeal. Where the statutory consultee is a party to the appeal, they may be liable to an award of costs to or against them².
5. There is dispute between NE and the applicant in terms of whether NE are a party to the appeal. This is because NE responded to the consultation at application stage but has made no representations as part of the appeal.
6. It would have been beneficial for NE to respond to the material and new evidence provided, but it is not a compulsory requirement. In addition, NE's

¹ Paragraph: 029 Reference ID: 16-029-20140306

² Paragraph: 055 Reference ID: 16-055-20140306

objection sets out the process for the Council if they were minded to grant planning permission contrary to the advice. The Council's ecologist also raised similar concerns to NE.

7. The officer's report sets out both the NE consultation response and the additional evidence provided. Whilst the reason for refusal relating to the West Pennine Moors Site of Specific Scientific Interest did take into account NE's objection, the Council were not duty bound to NE's response. Thus, the lack of response from NE has not resulted an unfair or unreasonable reason for refusal, and sufficient evidence has been provided to substantiate this reason for refusal.
8. For the reasons set out above, even if NE can be considered as a party to the appeal, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for an award of costs is refused.

L Wilson

INSPECTOR