



Costs Decisions

Site visit made on 14 May 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Costs applications in relation to Appeal Ref: APP/N4720/W/24/3338092 Bridle Path Stables, Bridle Path Road, Shadwell, Leeds LS17 9ND

- The appeal was against the refusal of planning permission for demolition of an existing stables and construction of new dwelling with associated landscaping and access works.

Application A

- 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 Leeds City Council for a full award of costs against Judith Raynor.

Application B

- 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 Judith Raynor for a full award of costs against Leeds City Council.
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Decisions

1. Application A - The application for an award of costs is refused.
2. Application B - The application for an award of costs is allowed in the terms set out below.

Background

3. 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. Such unreasonable behaviour may be procedural, relating to the appeal process, or they may be substantive relating to the issues arising from the merits of the case presented.

Application A Reasons

4. The Council's application is based on substantive grounds. In short, it is the Council's case that the appellant acted unreasonably in pursuing an appeal which, in its view, had no reasonable prospect of succeeding following a previous dismissed appeal at the site.
5. However, the changes that were made to the location of the proposed dwelling following the previous appeal meant that the proposals were materially different. This raised some different planning considerations in relation to how it should be assessed as inappropriate development or otherwise in the Green Belt, and in terms of character and appearance. In this context, it was entirely reasonable for the appellant to exercise their right of appeal against

the decision of the Council, notwithstanding the previous appeal decision. Moreover, it will be seen from my appeal decision that the appeal has been allowed.

6. It therefore follows that unreasonable behaviour, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Application B Reasons

7. It is the applicant's case that the Council did not properly substantiate its reasons for refusal in light of the changes that were made to the scheme since the previous appeal.
8. The Council asserts that it understood the differences between the schemes and made this front and central to their detailed consideration of the proposal. Attention is drawn to the officer's report which sets out the difference between the schemes.
9. Even so, I find little evidence that the Council properly assessed the impact of the changes to the scheme. Rather, it appears that much reliance was placed on the previous appeal decision. For example, the officer's report states that the proposal did not address the previous concerns in relation to the new residential garden and driveway areas introducing domestic paraphernalia, while in the refusal reason it also states that the proposal would encroach into the countryside. Yet, in the current appeal scheme the proposed dwelling and its residential curtilage have been purposefully relocated away from open and undeveloped land, and would now be confined to the previously developed area of the existing stables where there is already a building in active use with associated parking, paraphernalia, and lighting. This represents a fundamental change in circumstances from the previous appeal scheme, and one that was not, in my view, given appropriate attention in the Council's appraisal of the merits of the case, leading to an outcome that was difficult to understand even accounting for differences in planning judgement.
10. For the reasons set out in my appeal decision, I found the current proposal to be acceptable in relation to national Green Belt policy and in character and appearance terms, and so I allowed the appeal.
11. Overall, I consider that the Council's refusal was not well founded, with the result that it has been unable to substantiate its reasons at appeal. I therefore find that the Council has acted unreasonably with respect to the substance of the appeal.
12. In terms of procedural matters raised, I do not share the applicant's concerns over the Council's decision notice as this should be read together with the officer's report which provides a more detailed summary of the Council's position. In addition, the Council, as local planning authority, is not obliged to engage with an applicant during the course of the planning application, particularly if it feels that there are no amendments which could make the scheme acceptable. Thus, I do not find evidence of unreasonable behaviour in procedural terms.
13. Nonetheless, I am of the view that unreasonable behaviour described in the PPG has been demonstrated on the part of the Council on substantive grounds, and has resulted in the applicant's unnecessary expense in contesting the appeal. A full award of costs is therefore warranted.

Costs Order – Application B

14. 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 Leeds City Council shall pay to Judith Raynor, 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.
15. The applicant is now invited to submit to Leeds City 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.

A Caines

INSPECTOR