



Costs Decision

Site visit made on 21 May 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Costs application in relation to Appeal Ref:

APP/X4725/W/24/3336805 Wragby Grange, Doncaster Road, Wragby, Wakefield, West Yorkshire, WF4 1QX

- 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 Mr Christopher Beach (Wragby Grange Dog Daycare) for a full award of costs against Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for a retrospective change of use of land and buildings for a dog day care facility and dog grooming business and associated works and retrospective change of use of attached barn (part of) to part of existing dwellinghouse without complying with conditions 3, 5, 6 and 8 attached to planning permission Ref 21/02268/FUL, dated 13 January 2021.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The general principle embodied within the PPG is that the parties involved should normally meet their own expenses. Examples of unreasonable behaviour by planning authorities include:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan;
 - a failure to produce evidence to substantiate each reason for refusal on appeal, and
 - the use of vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The Application for costs was made on seven grounds. However, grounds 1, 5 and 6 are irrelevant because they relate to the Council's handling of the original permission, or enforcement complaints rather than the appeal scheme.
5. In essence the Applicant argues that the time taken to determine the application as well as the amount of supporting information requested by the Council was unreasonable and disproportionate particularly bearing in mind no

such information was requested with the original application which established the change of use. The Applicant also criticises the Council for refusing the application contrary to the conclusions of the technical highway and noise reports without good reason or appropriate evidence.

6. As is evident from my decision, I have found the Council's overall stance in relation to the appeal scheme to be concerning. While the Council is entitled to request further information to address its concerns, those concerns must be reasonable. Moreover, it must clearly explain what information was requested from the Applicant and why. If information is provided but considered unsatisfactory, cogent reasons must again be provided to explain why.
7. The delays to determining the application were primarily as a result of continued requests for further information. As to whether those requests were reasonable is questionable. One could have expected the Council to take a more proportional approach to the matter considering the change of use had already been established and that the extension to the hours and number of dogs and hence traffic movements was fairly modest. However, on balance, I do not consider the Council's request for further traffic and noise information, in itself, amounted to unreasonable behaviour.
8. However, within the overall legal framework of section 38(6) of the Town and Country Planning Act 1990, it is as much for the Council to make out its case as to why planning permission should be refused as for the Appellant to make out a case that it should be granted. Moreover, for the Council to have acted 'reasonably', it must "produce evidence to substantiate each reason for refusal" (my emphasis), within a context where those reasons should have been clearly and precisely stated.
9. I have found that the reasons for refusal were notably vague. They did not explain why the information provided by the Applicant at the determination stage was insufficient nor did they explain what further information was needed. Perhaps more concerning was the Council's failure to properly engage with the technical evidence that was submitted and to provide sound reasons for coming to a contrary view. There was simply nothing of any substance in the Officer's Report to explain how the submitted noise and traffic information was unsatisfactory.
10. At the appeal stage the Council simply referred to its Officer Report with one or two minor additions. It manifestly failed to present a positive case to explain how the development would cause unacceptable harm to highway safety or the living conditions of neighbouring occupiers in respect of noise disturbance. The Council therefore failed to produce evidence necessary to substantiate the reasons for refusal on appeal.
11. Accordingly, I conclude that the unreasonable behaviour has been demonstrated which resulted in the wasted expense of the Applicant having to pursue this appeal. I therefore conclude that a full award of costs is justified.

Costs Order

12. 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

Wakefield Metropolitan District Council shall pay Mr Christopher Beach, the costs of the appeal proceedings described in the heading of this decision.

13. The applicant is now invited to submit to Wakefield 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.

D M Young

INSPECTOR