

Costs Decision

Site visit made on 1 October 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

**Costs application in relation to Appeal Ref: APP/X4725/W/24/3345331
The Quarry Restaurant, Bar and Business Space, 70 Quarry Hill, Horbury,
Wakefield WF4 5NF**

- 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 Ashtree Partners LLP for a full award of costs against Wakefield Metropolitan District Council.
 - The appeal was against the refusal of the Council for planning permission for extension to existing bar/restaurant (A3), demolition works and installation of external flue and plant equipment without complying with a condition attached to planning permission Ref 17/02587/FUL, dated 21 December 2018.
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Decision

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

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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The applicant has set out that the Council refusing the application amounts to unreasonable behaviour. This is because the Council found that the proposal would result in significant detrimental impacts to the amenity of residents, and that the mitigation measures, validation testing, and a noise management plan would not effectively and practically reduce the harm.
4. The main issue in this appeal was the effect of the proposed development on the living conditions of neighbouring occupiers with regard to noise and disturbance. The applicant's evidence included a noise assessment¹ which had been prepared by a suitably qualified expert with several recommendations and conditions to mitigate any noise issues affecting neighbouring occupiers. Furthermore, the Council's adviser, the Environmental Health Officer (EHO) had no objection to the proposal, subject to relevant conditions.
5. Despite this, the Council referred to historic noise issues at the site and a previous application² which, although refused, demonstrated higher levels of noise. Overall, the Council has offered very little to support its divergence from

¹ Noise Impact Assessment DC4179-NR1v4, Dragonfly Consulting, December 2023

² Ref 19/00682/FUL

the weight of evidence and expert opinion beyond general assertions about the harm that would result from the proposal.

6. The submitted evidence identified that the applicant asked the Council on several occasions, as to whether additional information or clarification was required. Instead, and despite the applicant agreeing a number of extensions of time at the request of the Council, the Council refused the application, partly on a lack of information. Furthermore, and despite the Council's assertions, there is no evidence that the applicant has sought costs as a result of having to undertake a number of revisions to the noise report to address the EHO's concerns.
7. Given all this, and my decision to allow the appeal, I find that the Council should clearly have granted planning permission. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 to Ashtree Partners LLP, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the submission of this appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. 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.

M J Francis

INSPECTOR