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## Costs Decision

Site visit made on 17 December 2024

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 JANUARY 2025

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### **Costs application in relation to Appeal A Ref: APP/R4408/C/24/3344454**

#### **Jimboy Stables off Mackey Lane, Brierley, Barnsley, S72 9LD**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by MR J CONNORS for a full award of costs against Barnsley Metropolitan Borough Council.
- The appeal was against an enforcement notice alleging operational development and the change of use of land for residential occupation of caravans.

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### **Costs application in relation to Appeal B Ref: APP/R4408/W/24/3344453**

#### **Jimboy Stables off Mackey Lane, Brierley, Barnsley, S72 9LD**

- 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 J CONNORS for a full award of costs against Barnsley Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for material change of use of the land from former allotments to caravan site for Gypsy Traveller family with associated development including hard standing, boundary wall and gate and day room.
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## Decision

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

## Main issues

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 seeks a full award of costs in each appeal on the basis that the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations and failure to substantiate the reason refusal on appeal.
4. The Council have not responded to the costs application.

## Reasons

5. The revisions to national policy made in December 2024 were relevant in the determination of these appeals.
6. However, taking into account the Council's behaviour prior to these revisions, they failed to produce evidence to substantiate all of the reasons for refusal on appeal (for example highways safety and loss of green space) and relied on vague and

generalised assertions about the impact of the development which were unsupported by objective analysis. They also failed to respond to the applicant's case during the appeals process regarding the size and location of the appeal site (meaning that the area shown on the enforcement notice was inaccurate), and material considerations such as the personal circumstances, human rights and the best interests of the children living on the site, and the need for and supply of pitches (including a recent appeal decision on this issue to which the Council did not refer). Furthermore, the Council did not give proper consideration or analysis regarding whether suitable conditions could have made the development acceptable.

7. For these reasons, the Council have not behaved reasonably either procedurally or in respect of the substance of the matters under appeal. By unreasonably refusing permission and then defending these appeals without responding properly to the case made out by the applicant, they have caused undue delay and expense to be incurred by him.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

### **Costs Order**

9. 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 Barnsley Metropolitan Borough Council shall pay to Mr J Connors, 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.

The applicant is now invited to submit to Barnsley Metropolitan Borough 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.

*Zoë Frank*

INSPECTOR