
Costs Decision

Hearing held on 25 March 2025

Site visit made on 25 March 2025

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Costs application in relation to Appeal Ref: APP/X4725/W/24/3352319

Southdale Playing Fields, Lime Street, Ossett, Wakefield, WF5 0AQ

- 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 Accord Multi Academy Trust for a full award of costs against Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for a fenced and floodlit artificial grass pitch and changing pavilion development with access and parking.
-

Decision

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

Preliminary Matter

2. Due to the timing of the written response from the Council, it was agreed at the event that the appellant could submit final comments after the Hearing had closed and was given the deadline of Friday 28 March 2025. The subsequent final comments from the applicant were submitted on Thursday 27 March 2025.

The submissions for Accord Multi Academy Trust

3. The costs application was submitted in writing. The unreasonable behaviour of the Council began at the Planning and Highways Committee meeting on 14 March 2024. The application was refused despite there being a planning case officer recommendation to approve, and no objection to the development proposals from any statutory consultee or non-statutory consultee. The decision to refuse the application flew directly in the face of professional and consultee advice from, among others.
4. The Highway and Planning Services Committee are entitled to take a different view from their professional advisers. However, where they choose to do so, the decision must be based on firm, justifiable planning reasons – and provide a rational explanation of why members do not agree with consultees and the recommendation contained in the Officer Report.
5. The Local Planning Authority (LPA) failed to take a reasonable decision in the face of overwhelming evidence of the acceptability of the proposals when evaluated against all of the relevant policies in the development plan and the National Planning Policy Framework. This failure has been compounded by not adequately reviewing its decision when (prior to lodging the appeal) the Appellant sought to find common ground and revisions to the scheme which might close the gap

between the parties. The Statement of Case submitted by the LPA is seriously deficient. This appeal should not have been necessary.

The response by Wakefield Metropolitan District Council

6. The response was made in writing, with no additional points made at the event. The decision by the LPA is not unreasonable or flawed. Members have the right to overturn an Officers' recommendation and, in this case, it is entirely reasonable to conclude that the use of the existing playing fields for an artificial, floodlight grass pitch and associated car park/changing pavilion could result in harmful noise/disturbance to existing residents due to the comings and goings associated with the intensified use, in close proximity to habitable room windows of neighbouring properties on Lime Street and Station Road.
7. The proposal would also result in harm to the character of the area, which is currently existing playing fields, free from development. Members referred to Policies LP56 and LP67 of the Wakefield Local Plan and the National Planning Policy Framework when making their decision and their conclusion on this matter of residential and visual amenity is a reasonable planning judgement, backed by local and national planning policies.
8. Officers acknowledge that the Council's Highways Development Management team did not object to the application, however, it is not unreasonable for Members of the Planning and Highways Committee to take a different view on the proposal and make the reasonable judgement that the lack of adequate layout within the development site would fail to allow emergency vehicles to access the site safely from Lime Street and that there would be a harmful conflict between users of the proposed development and other local road users. In the opinion of Members, the proposal would fail to comply with policy LP27 of the Wakefield Local Plan and the National Planning Policy Framework. Members visited the site to consider the impact of the proposed development on local residents, highway safety and the local character of the area.
9. The Local Planning Authority do not consider that a hearing is the most efficient way of dealing with this appeal and urge the Inspector to dismiss all costs associated with attendance at the hearing; the LPA are of the opinion that the appeal could have been dealt with by written representations, with costs for both parties being significantly reduced. An email was sent to the Planning Inspectorate to advise of the LPA's request for this appeal to be dealt with by Written Representations; no reply was forthcoming.

Reasons

10. 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.
11. The PPG states¹ that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan,

¹ Paragraph 049 Reference ID: 16-049-20140306

- national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
12. The Council refused the application, contrary to the recommendations of its officers, for reasons relating to highway and pedestrian safety, living conditions of neighbouring occupiers and character and appearance. The Council is not duty bound to follow the advice of its professional officers. However, if a different decision is reached then the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. I recognise that the Council's refusal reasons on its decision notice are complete, precise, specific and relevant to the application, with the policies of the development plan which it would be in conflict with clearly stated, along with the perceived conflict with the National Planning Policy Framework cited. An appeal statement has also been submitted to support these reasons for refusal.
 13. Nonetheless, even though the Chair of the Planning and Highways Committee attended the event to defend the position of the Council, he was supported by the Council's Highways Development Management team and the Case Officer who recommended the proposed development for approval. Both Council Officers confirmed that their respective positions had not changed, and they were present only in a supportive capacity. Whilst the Council seeks to highlight its view towards the appeal procedure, it is incorrect to say that '*no reply was forthcoming*' to its email dated 25 September 2024, as it received a letter dated 8 October 2024, which clearly stated: '*We currently consider this appeal suitable to follow the Hearing procedure*'. No further correspondence was received on this matter.
 14. In any event, the application subject of this appeal has benefitted from a substantial amount of supporting technical evidence, with particular regard to highway and pedestrian safety, and living conditions, which resulted in the support of the planning application from the Council's professional officers. I accept that local knowledge is also important in the determination of planning applications, such as the experience of Members on the minibus when undertaking their site visit and those expressed by interested parties. However, given the technical evidence has been produced by suitably qualified authorities, and in the absence of equivalent evidence to the contrary on the part of the Council, I have given this significant weight.
 15. I accept in respect of matters surrounding character and appearance, there is a little more subjectivity when compared towards the other main issues. In this regard, the level of evidence to support the Council's position on this main issue is finely balanced, particularly in light of the site's location within the Ossett Urban Area. However, given the Chair of the Planning and Highways Committee's additional comments provided verbally at the event on this matter, I consider the Council's overall argument is sufficient to prevent an award of costs on this aspect of the claim.
 16. For the reasons given above, I find that unreasonable behaviour by the Council, resulting in unnecessary expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

17. 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 Accord Multi Academy Trust, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in arguing against the Council's view that the proposed development would result in harm prejudicial to highway and pedestrian safety, and living conditions of neighbouring occupiers on Lime Street and Station Road; such costs to be assessed in the Senior Courts Costs Office if not agreed.
18. 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.

W Johnson

INSPECTOR