
Costs Decision

Hearing held on 17 June 2025

Site visit made on 17 June 2025

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Costs application in relation to Appeal Ref: APP/R4408/W/24/3355889 Worsbrough Equestrian, Worsbrough Road, Worsbrough, Barnsley S70 5LN

- 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 C Smith and Ms A Doran for a full award of costs against Barnsley Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a material change in use of land to provide single pitch gypsy site for stationing of caravans for residential occupation with associated development (new access, hard standing, utility building, entrance wall and gates)-part retrospective without complying with conditions attached to planning permission Ref: 2020/0044, dated 23 June 2021.
-

Decision

1. The application for an award of costs is refused.

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.
3. The applicants are seeking a substantive award of costs. This is on the grounds of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and failure to produce evidence to substantiate the reasons for refusal on appeal. The applicants also consider that the Council has prevented or delayed development which should clearly have been permitted and which is unsupported by any objective analysis.
4. The applicants are of the view that the Planning Officer Report did not consider other appeal decisions as a relevant material consideration. It is however evident from the appeal submissions that in any event not all decisions at that time would have supported a grant of permission. I also disagree there was no proper consideration of the best interests of the child or the Public Sector Equality Duty. The Planning Officer Report refers to the personal circumstances of the applicants, as well as what the 2021 appeal decision¹ on the site and the Planning Policy for Traveller Sites (PPTS) said about this matter.

¹ Appeal ref: APP/R4408/W/20/3251211

5. In relation to whether there was a proper consideration of a temporary permission, it is understood that the applicants' position when the Council made its decision was that it was seeking a permanent permission. While the PPTS makes reference to the use of a temporary permission, one such permission had already been granted under the 2021 appeal decision. It is not therefore unreasonable not to consider a further permission. My appeal decision does grant a further temporary permission, but that is largely based on evidence submitted since the Council decision and so the Council could not have been reasonably aware of it.
6. Hence, none of these matters constitute not considering the 'full facts' of the case at that time and so do not amount to unreasonable behaviour in having proper regard to all relevant material considerations and the balancing exercise.
7. The applicants' response to the Council costs rebuttal introduces a number of further contentions, including over a lack of evidence in certain respects. However, the Council's appeal statement satisfactorily amplifies the reasons for refusal and comments on the applicants' case. The site lies within the Green Belt, partially within a conservation area and partially within its setting, within the setting of listed buildings and is the subject of a Tree Preservation Order. These afford a strong level of protection under national and local planning policy, regardless of whether the harm has lessened or is greater since the 2021 appeal decision. While I disagree with the Council's decision, this is not a case where a contrary view could not be taken.
8. The applicants also take issue with the Council determining the application differently from the 2021 appeal decision. Yet, that permission was time limited for the reasons that are set out in that decision and so the Council is under no obligation to determine it in the same way. The Council has accepted during the appeal the need to note and take on board recent appeal decisions on need and supply, but it does not consider this justified a further planning permission. This is simply a matter of judgment and the same applies over alternative sites, including those in the Council's Barnsley Local Plan (2019). As they are allocated, it should not be a surprise that the Council rely on them in part, notwithstanding they have not come forward.
9. It is also evident that the Council do take issue with the utility block in respect of the materials that it is constructed of. Matters in relation to why a conditions application was not determined related to the 2021 appeal decision are not for my consideration under this costs claim. Previous behaviour and actions can only relate to the planning application which is the subject of the appeal.
10. None of this amounts to preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and failure to produce evidence to substantiate the reasons for refusal on appeal. Nor is it a case where the Council has prevented or delayed development which should clearly have been permitted and which is unsupported by any objective analysis.
11. I have also considered whether a partial award should be made, but I reach the same overall conclusion. The Council has provided sufficient evidence across all the grounds and so such an award of costs is also not justified. As I have not found unreasonable behaviour, I do not have reason to consider whether unnecessary or wasted expense has been incurred.

Conclusion

12. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR