



Costs Decision

Site visit made on 16 September 2025

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3365238 Riverside A, Low Street, Brotherton, Selby, North Yorkshire WF11 9HQ

- 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 The Clothing Bank for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for 2 single storey detached buildings for clothing sorting and storage.
-

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. PPG explains that 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 raises concern in relation to the delay in timescales for the determination of the application; the lack of meaningful engagement; the assessment of the material consideration on which the decision was based; the interpretation of the operations; weight given to representations made; consideration of flood risk, and the conduct of the committee in deciding the application. The applicant claims that such amount to unreasonable behaviour.
4. The application was submitted in January 2023 and validated in June 2023 with a decision issued in March 2025. I appreciate that this is a long time but given the community benefits of the scheme and level of support received, the delays were to try and resolve the issues that had arisen. To this end, time was given for the submission of various information and reports which took time to prepare and submit and then reconsult where necessary. I do not find this approach to be unreasonable, and I also understand that the appellant mutually agreed to time extensions during this process. If a decision was made sooner, it would not have altered the outcome of the decision and thus the appeal would still be needed.

5. I understand that a site visit took place whereby the applicant was informed that the application would be supported which is unfortunate given the subsequent decision. The Council's concerns regarding residential amenity were however raised and an email set out a number of conditions to ensure appropriate safeguards were made for amenity. Further communications took the form of requests for additional information regarding activity associated with the charity. Following internal discussions, the Council concluded that conditions would not pass the relevant tests which is explained fully within the officer's report. It is not unreasonable or unusual for case officer's and colleagues to discuss an application prior to a decision being made which can ultimately affect the approach taken and outcome of the decision. I do not find this to amount to unreasonable behaviour.
6. The applicant claims that a simple small-scale operational development has been refused permission for reasons relating to a supposed change of use. The applicant claims that this has not taken place nor intended. Even so, the proposed development relates to operational development and has been assessed on this basis having regard to the material considerations. I do not find the Council to have acted unreasonably in this regard.
7. I do not dispute that deliveries are directed to the neighbouring commercial storage facility at the Jolly Sailor Yard, but the data provided via the diary shows high levels of comings and goings to Riverside A. I cannot agree that the level of activity has been exaggerated particularly as this is the results of the diary undertaken for the site and a third-party objector has also provided a diary which confirms high levels of comings and goings. The officer's report acknowledges that the timber buildings are to be used for clothing sorting and storage and whilst this would enable more efficient sorting and assembly of clothing for distribution, it still has the potential to create more comings and goings than at present by increasing the storage space at the site which would be allowed under the terms of the description of development. It is therefore a reasonable assumption that the appeal site could take more donations in the future. I do not find the Council to have acted unreasonably in this regard.
8. The officer's report acknowledges both support and opposition for the scheme including letters of support from local residents. The contents of both support and opposition are clearly set out and the benefits of the scheme formed part of the planning balance within the officer's report. The Council acknowledged that the application supports people in need etc and would be compliant with policy in this regard. It was however concluded that this would be to the detriment of residential amenity and thus would not outweigh the harm. Photographs and diaries have been provided from a third-party objector in relation to the activities i.e. bags being dropped off/picked up and the use of wheeled containers. I have no compelling evidence to confirm that these are totally unsubstantiated allegations. The Council has not therefore behaved unreasonably in terms of giving weight to representations.
9. Paragraph 176 of the National Planning Policy Framework sets out that some minor development and changes of use should not be subject to the sequential test. Footnote 62 explains that this includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park. Based on the evidence before me, I am not sufficiently satisfied that the

- proposals would fall into one of these categories and thus I do not find it unreasonable for the Council to have requested a sequential test.
10. I appreciate that the scope of the sequential test was set out by the Council, but I also note that this was prior to receiving further information regarding the charity operations. This included information regarding donation points and network of volunteers across Yorkshire which then confirmed that they provide for needs irrespective of geographical boundaries. The Council's request for a wider geographical area was therefore not unreasonable. Whilst it may have been useful for the appellant to have been given the opportunity to respond, there were other substantive issues with the application, and this would not have altered the outcome. Further, it is not a certainty that if the search was widened, a new site would not have been found.
 11. The applicant claims that the Council has misunderstood the charity's operation, which is necessarily based on the home of its co-founder. Limited information has been put forward in terms of why a clothing sorting and storage building could not be on a site further from Brotherton and Byram and I do not find the Council to have misunderstood the operations. The Environment Agency confirmed withdrawal of their objection to the Flood Risk Assessment. This has no bearing on the sequential test and the consultee response from the Environment Agency is clear in this regard. It explains that they have withdrawn their objection to the application on flood risk grounds, but this does not remove the need to apply the sequential test and to consider whether it has been satisfied. The Council has not behaved unreasonably in this regard.
 12. The committee minutes have been provided which confirm that an update to the report had been circulated and published and that it summarised a statement received from the applicant and a letter received from a neighbouring objector. Prior to making their decision, members of the planning committee would have been aware of the relevant considerations and planning policy as set out in the officer's report and update note. Such were also presented verbally on the day to members. Questions were asked and answered accordingly, and a debate was had regarding the proposals. Based on the evidence before me, I am satisfied that members had sufficient information to reach a view on the application. The suggestion of a temporary consent was raised for one building and the officer advised that the application should be assessed as presented. Officers advised that it would have been difficult to separate the application from two buildings to one, and a delivery hours condition could mean the deliveries become more concentrated in a particular timeframe. I do not find such discussions to be unreasonable.
 13. Bringing everything together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

N Teasdale

INSPECTOR