



Costs Decision

Site visit made on 4 February 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Costs application in relation to Appeal Ref: APP/E2530/W/24/3348245

The Willows Residential Care Home, 74 Station Street, Rippingale, Lincolnshire, PE10 0SX

- 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 and Mrs S & R Nahil of The Willows Care Home Limited for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for the erection of a new detached building and extension to existing care home.
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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. Unreasonable behaviour on the part of a Council may include failure to produce evidence to substantiate each reason for refusal or vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, refusing planning permission on a planning ground capable of being dealt with by conditions and not determining similar cases in a consistent manner.
4. The costs application is made on the basis that the Council acted unreasonably in refusing planning permission. The application suggests that the Council (1) prevented or delayed development which should clearly be permitted having regard to the development plan, (2) used vague, generalised or inaccurate assertions about a proposal's impact, (3) have not determined similar cases in a consistent manner, and (4) refused planning permission on a planning ground capable of being dealt with by condition.
5. The Council was entitled to take a decision contrary to the advice of its professional officers and that in itself is not grounds for an award of costs. In relation to (1), I have dismissed the appeal for reasons relating to the character and appearance, living conditions for future occupants of the care home and biodiversity. As these were grounds upon which planning permission was refused, the Council did not prevent or delay development that should clearly be permitted.

6. Even so, the Council must produce evidence to substantiate its decision. The Council's statement of case draws attention to the officer's delegated report and the decision notice as forming the main arguments behind its decision to refuse planning permission. This is clearly an error as the Officer recommendation in the committee report was to approve the planning application. This does not constitute evidence that substantiates the Council's reasons for refusal and the Council's Statement largely reiterates the reasons on its decision notice with no detailed explanation behind those reasons. Moreover, the planning committee minutes summarise the general discussions and do not set out the reasons with any clarity or precision. Though the Council's reasons for refusal reference development plan policies, their reasoning is vague. The Council's failure to substantiate its reasons for refusal was therefore unreasonable. However, this did not prevent the reasons for refusal from being understood, or an assessment being made based on all of the evidence available.
7. In relation to (3), the applicant suggests that the Council's reasons set out in its decision are more onerous, different and not consistent with reasons set out in its decision in relation to a previously refused planning application¹ (the previous application). The applicant sought to address the Council's reasons for refusing the previous application through the resubmission of the appeal proposal. The two decisions cite partially differing reasons for refusal (when read in conjunction with the Officer report associated with the previous application). However, as the proposals differ, so too could the assessment, and the decision maker is perfectly entitled to consider harm previously identified not to have been addressed.
8. The applicant contends that the Council's decision raises a new matter in relation to the loss of trees/hedgerow, despite there being no objection from the Council's Tree Officer subject to the impositions of conditions. I do not agree that the imposition of conditions would have been an option available to the Council in relation to (4) for the reasons set out in my main decision.
9. Overall, whilst I find that the Council behaved unreasonably in relation to (2), no unnecessary or wasted expense was incurred by the applicant as a result and an award of costs is not warranted.

Conclusion

10. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated by the applicant. Consequently, the application for an award of costs is refused.

H Marriott

INSPECTOR

¹ Council Ref: S20/1103 Erection of new detached building and extension to existing care home