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## Costs Decision

Site visit made on 3 February 2025

**by C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 8<sup>th</sup> of April 2025**

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### **Costs application in relation to Appeal Ref: APP/G2625/W/24/3355011 Unit 5B Riversway, Wherry Road, Norwich NR1 1WX**

- 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 Ms Elisabeth Pywell (HSBC C/O CBRE) for a full award of costs against Norwich City Council.
  - The appeal was against the refusal of planning permission for Full planning permission and advertisement consent for the erection of a freestanding Automated Telling Machine ("ATM") and associated advertisements.
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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. The application for costs makes reference to two applications that were made to the Council, albeit on a joint application form. These related to an application for full planning permission for a freestanding ATM<sup>1</sup>, and an application for advertisement consent for display of 4no. internally illuminated fascia signs incorporated into ATM<sup>2</sup>. Both applications were refused.
4. However, although reference is made to both the refusal of planning permission and the refusal of advertisement consent within the appellant's evidence, the provided appeal form makes reference only to the refusal of planning permission. Accordingly, no appeal in relation to the refusal of advertisement consent has been made. In the absence of a relevant appeal, it therefore follows that an award of costs could not be made against the Council in respect of this. I have, therefore, not considered this element of the application for costs any further.
5. In relation to the refusal of planning permission, it is stated that the Council acted unreasonably in refusing planning permission where it was concluded within the officer's report that the proposal accorded with the development plan and that there were no material considerations that indicated it should be determined otherwise.

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<sup>1</sup> 24/00726/F

<sup>2</sup> 24/00727/A

6. It is also stated that the Council has inaccurately portrayed the representations of Norfolk Constabulary.
7. It is the case that the Officer Report is inconsistent in that its stated conclusion indicates that the proposal accords with the National Planning Policy Framework and the development plan, and that there are no material considerations that indicate it should be determined otherwise. The Council has advised that this was a drafting error.
8. Whilst such an error is unfortunate and adds an element of doubt to the Council's position, the concerns of the Council are clearly stated within the body of the report and are reflected in the single reason for refusal, which is also clearly outlined. The fact that the Council acknowledged the potential benefits of the scheme do not detract from this.
9. Overall, I consider that the Council's reasons for refusing planning permission were readily understandable and substantiated within the Officer's Report, despite the erroneous conclusion. The reasons for refusal and the drafting error were both further clarified within the Council's statement of case, and did not amount to unreasonable behaviour. Furthermore, even if I had concluded that the Council acted unreasonably in this respect, it has not resulted in an unnecessary appeal or expense on the part of the appellant.
10. In relation to the comments of Norfolk Constabulary, although no objection was raised, concerns in relation to the effect of the proposal upon crime and the fear of crime were set out and conditions suggested in order to mitigate them. Although there some difference in the language used with the Officer's Report broadly reflects these concerns. It is also apparent that the Council considered the effect of the measures set out in the suggested conditions upon the character and appearance of the area. These were matters it was entitled to consider and do not amount to an inaccurate portrayal of the representation. Furthermore, the Council, within its statement of case, clarified that the issues raised within the representation did not form part of the reason for refusal, and included the conditions suggested by Norfolk Constabulary within the list it provided as part of the appeal process. The Council did not act unreasonably in this regard, nor its behaviour lead to an unnecessary appeal or expense on the part of the appellant.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*C Harding*

INSPECTOR