



Costs Decision

Site visit made on 4 March 2025

by **K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Costs application in relation to Appeal Ref: APP/N3020/W/24/3354066 Ernehale Lodge Nursing Home, 82A Furlong Street, Arnold, Notts NG5 7BP

- 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 Waseem Shafiq (Arnold Point Limited) for a full award of costs against Gedling Borough Council.
- The appeal was against the refusal of planning permission for change of use from nursing home to 19 no. dwellings with rear, side and roof extensions and facade alterations.

Decision

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

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 PPG adds that local planning authorities are at risk of an award of costs if they make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and which prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The claim, in short, is that members of the Council's planning committee ignored the evidence before it, including technical highways evidence submitted in support of the application; consultee responses raising no objection; and the planning officer's report recommending approval. Instead, it is argued that members formed an alternative view not based on evidence, but vague assertions unsupported by objective analysis. It is also argued that the Council failed to determine similar applications in a consistent manner, citing developments permitted nearby with reduced or no on-site parking provision.
5. The fact that the planning committee did not agree with the recommendation of Council officers is not itself justification for an award of costs. However, the reasons for doing so need to stand up to scrutiny and be supported by robust, objective evidence.
6. The Council sets out that the committee, in exercising its planning judgment, afforded more weight to Table 3 of the Council's Parking SPD¹ that set out the required parking spaces than to the supporting text of the SPD which sets out that reduced car parking spaces can be allowed in certain circumstances. Members'

¹ Parking Provision for Residential and Non-Residential Developments: Supplementary Planning Document (SPD)

local knowledge of parking stress in the area and public representations were also factored into its decision.

7. However, there was little detail before me as to the actual analysis carried out by the Planning Committee at the meeting in determining to refuse the appeal scheme, as the minutes do not contain a full transcript of the debate. The Council's written evidence at appeal simply states that members agreed with the analysis of the committee report where it describes existing high levels of parking pressure on James Street and Furlong Street, and attributed significant weight to paragraphs 11.4 to 11.7 of the report setting out where the proposal fell short of the relevant parking standards. However, those paragraphs do not state that the shortfall would actually lead to additional on-street parking pressure.
8. Moreover, the Council has not subsequently provided any objective evidence to support its position that the shortfall of three spaces against the SPD requirement would actually cause additional on-street demand for parking, or to what degree it would do so. Nowhere does the Council set out cogent arguments as to the expected degree of impact on parking locally, nor does it explain why the applicant's evidence regarding vehicle ownership levels, the proximity of the site to the town centre and public transport, or the response of the local highway authority raising no objection, were given lesser weight. In short, no substantive evidence has been adduced by the Council to demonstrate the level of parking demand would exceed the spaces proposed, or that if it did, any excess demand would push parking pressure on the street past a saturation level so as to cause harm.
9. The Council adds that other cases cited by the applicant are not comparable, with that at the Baptist Church stated to have involved different material considerations, including the need to retain a designated heritage asset. However, the pertinent point is that the Council found no harm on the specific issue of parking provision at the Baptist Church, despite it offering no on-site parking at all against a requirement of 23 spaces. The Council offers no explanation as to why the appeal scheme was viewed less favourably despite offering 13 on-site spaces and being in a comparably sustainable location. I accept that other material considerations may ultimately lead to a different outcome in the planning balance, but on the evidence before me, the Council has failed to adequately explain its different approach to the two proposals on the specific issue of parking provision.
10. As such, the Council has failed to substantiate its position that the shortfall of three parking spaces is an issue of such weight as to be singularly decisive in the overall planning balance. Indeed, the Council refers to a 'planning balance' only in respect of the weight attributed to the SPD table versus its supporting text. That is not a planning balance in the sense of Section 38(6) of the Act, but a judgment on a single planning issue. The perceived harm in terms of parking stress represents one harm in the overall planning balance. However, the Council's evidence provides no analysis of the weight afforded to other material considerations weighing in favour of the proposal. As such, it is unclear that the Council, either at application stage or appeal stage, conducted a full and reasoned planning balance in reaching its decision.
11. In these respects, I find that the Council has failed to take into account all relevant material considerations, and instead based its decision on vague, inaccurate assertions not supported by objective evidence. Consequently, the Council has failed to substantiate its reason for refusal. This amounts to unreasonable

behaviour as set out in the PPG and it follows that the applicant has been put to the unnecessary expense of making the appeal. Therefore, a full award of costs is justified.

Costs Order

12. 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 Gedling Borough Council shall pay to Mr Waseem Shafiq (Arnold Point Limited), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Gedling Borough 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.

K Savage

INSPECTOR