
Costs Decision

Site visit made on 2 April 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Costs application in relation to Appeal Ref: APP/A2470/W/24/3350388 Pippin Wood, Preston Road, Wing LE15 8SB

- 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 Ashley Dennis of Forest Rooms for a full award of costs against Rutland County Council.
 - The appeal was against the refusal of planning permission for a change of use from recreational woodland to a tourism use comprising five boutique eco forest retreats, a site office, storage, associated access and works.
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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 applicant contends that the Council's refusal was based on unsupported assertions and a lack of substantive evidence about the proposal's impact, and also that matters could have instead been dealt with by condition. They further argue that the Council has failed to determine similar cases in a consistent manner.

Unsupported assertions

4. I dismissed this appeal, and my decision identified harm based on the same reasons as identified in the decision notice. There is no need to rehearse those arguments, but in particular I found that the site comprises a woodland which is considered important and makes a positive contribution to the landscape character of the area. It would also be an unsustainable location for its proposed use. On this basis, I therefore find that the reasons for refusal to be founded on supported assertions and substantiated evidence.
5. In responding to specific points in the appellant's costs application, I note the Council's officer report made no direct reference that the proposal would be temporary or reversible. However, I found that it would be permanent, because there is no binding mechanism to ensure otherwise. Therefore this was not unreasonable behaviour from the Council.
6. The Planning Officer did not visit the site. Although this certainly does not suggest best practice, the appellant has identified no legal requirement for them to have done so, and for example officer recommendation reports are often signed off by more senior officers or a Planning Committee who have not visited a site. The Tree

Officer did visit, which subsequently informed the Planning Officer's consideration. I also see no reason why they would have made a different overall conclusion, even with benefit of their own visit.

7. The appellant argues that there is no explanation of why the Council considers the development is not small scale. However, the officer report identifies it is because the scale of each lodge is comparable to that of an independent dwelling, and that in cumulation the proposal's level of impact upon local character would be too large. I came to the same conclusion.
8. The appellant suggests their appeal evidence had to address unspecified landscape and visual issues because the reason for refusal was vague and unsubstantiated. However, I do not find their evidence to go beyond the depth and extent of that which would normally be expected for an appeal relating to character and appearance, and tree loss.
9. The officer report is somewhat limited in its analysis, and certainly less so than the appellant's own evidence, but in reporting the comments from consultees and in its broad summary, it identifies the matters leading to the reason for refusal. This includes identifying the relevant development plan policies. The Council did acknowledge the benefits of the existing woodland acting to screen the proposal. Moreover, although I accept that the Council's Landscape Statement of Case rebuts the appellant's evidence but again does not provide its own analysis in such detail, I find it sufficient in conjunction with the Council's main Statement of Case to substantiate the Council's overall position.
10. The Council's case was to a large extent based on a lack of certainty as to the potential impact on trees. The appellant considers this to be unsupported because those trees do not exist within existing rides and clearings, or because there would be no significant removal of or effect on trees. However, I similarly found a harmful impact on trees would be likely.
11. The Council's Statement of Case refers that the impact on this sensitive countryside setting could also be adversely impacted by light pollution. This repeats the same statement made in the officer report, which I read as part of the Council's broader assessment of impact on character, rather than attempting to introduce a new reason for refusal.
12. I therefore find no unreasonable behaviour relating to unsupported assertions.

Conditions

13. My appeal decision explained why the second reason for refusal could not be addressed by conditions such as details of construction methodology, tree protection, and light spill. As such, I do not concur with the appellant that unreasonable behaviour has been demonstrated on this basis.

Consistency

14. To some extent, the Council displayed unreasonable behaviour in not sufficiently emphasising the economic and tourism benefits of the proposal. This was also inconsistent with reports on other comparable applications. However, even had this been referenced in more detail, or more information sought from the appellant, there is no indication that the Council would have come to a different decision. Indeed, my own determination found the harm would clearly outweigh the economic

benefits in cumulation with other benefits. The appeal would therefore still have been necessary, with no wasted expense caused.

15. My appeal decision acknowledged the similarities between the proposal and those allowed appeal examples submitted by the appellant, but also multiple differences. Some differences are significant, such as being within a village boundary or the re-use of existing buildings. Primarily, each case must be assessed on its own merits and in its own context, including the level of necessary screening and locational sustainability. Overall, I found those examples to only provide limited general support in favour on these matters of planning judgement.
16. Again, the Council could have better acknowledged the proposal's similarities to other permissions in terms of its limited compliance with some of the policies relating to the overall spatial strategy, and with the Framework. However, no wasted expense occurred because the application would still have been refused.

Conclusion

17. Overall, I conclude that for the reasons set out above, while some unreasonable behaviour has occurred on the part of the Council, this has not resulted in unnecessary or wasted expense during the appeal process as described in the PPG. For this reason, and having regard to all other matters raised, an award for costs is not justified.

L N Hughes

INSPECTOR