



Costs Decisions

Site visit made on 1 May 2025

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Costs application A in relation to Appeal Ref: APP/R3705/W/24/3355712 10-12 Tamworth Road, Polesworth B78 1JH

- 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 North Warwickshire Borough Council for a full award of costs against Mr Carlton McDonald.
 - The appeal was against the refusal of planning permission for the construction of apartments for over 55s accommodation. Ten 1-bedroom apartments.
-

Costs application B in relation to Appeal Ref: APP/R3705/W/24/3355712 10-12 Tamworth Road, Polesworth B78 1JH

- 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 Carlton McDonald for a full award of costs against North Warwickshire Borough Council.
 - The appeal was against the refusal of planning permission for the construction of apartments for over 55s accommodation. Ten 1-bedroom apartments.
-

Preliminary Matters

1. 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.

Application A

Decision

2. The application for an award of costs is allowed in the terms set out below.

Reasons

3. While pre-application advice is not binding, many of the concerns with the appeal scheme were raised prior to its submission. This included the issue of flooding. National and local policy are clear with regard to this topic and the order in which matters should be addressed. The requirement for a sequential test is also highlighted in the Flood Risk Assessment provided with the application and that there were in principle policy conflict with residential development in this location. The appellant has not provided sequential evidence, detailed modelling for the effects of the underground flood storage facility including its effects elsewhere, and it is not for this appeal to seek to amend national policy.
4. Whether or not the appellant had chance to address a Planning Committee, very little case has been made against the other refusal reasons with conditions being

suggested to overcome them. The reasons why these could not be addressed by condition is given in my decision.

5. Amended plans seeking to address the living conditions issue were not provided at the outset of the appeal when consultation took place. As a result, I have not considered them as part of the appeal. In any event, the floor plans provided do not show the position of openings.
6. Issues between the appellant and their agent or those who produced supporting documents and the method of how the Council register applications does not alter that insufficient information was provided as part of the appeal.
7. The development is clearly not in accordance with the development plan as well as national planning policy and guidance. There is inadequate supporting evidence provided of other material considerations to find against the relevant policy. Pursuing the appeal as has been presented was unreasonable. The Council have had to prepare evidence as part of the appeal, and this would have incurred costs.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. 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 Mr Carlton McDonald shall pay to North Warwickshire Borough Council, 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.
10. North Warwickshire Borough Council are now invited to submit to Mr Carlton McDonald, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Application B

Decision

11. The application for an award of costs is refused.

Reasons

12. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
13. Many of the points raised by the appellant, relate to issues prior to the appeal being made. As above, pre-application advice is not binding and with regard to the conduct of the Council during the application, including how the application was determined, PPG states that costs cannot be claimed for the period during the determination of the planning application. Similarly, the mechanism for pre-application advice from the Environment Agency is a matter outside of the scope of this appeal and costs application.
14. Issues between the appellant and any of their representatives or regarding fees, does not alter that the Council have given clear reasons for each refusal reason in

their decision and linked these to local and national policies. This was both at the time of their decision to refuse planning permission and again during the appeal proceedings. I have dismissed the appeal on all main issues and therefore, the Council have not been unreasonable regarding the planning merits of the appeal.

15. PPG also states that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission. It is not for this costs decision to review the process of applying for costs.
16. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stuart Willis

INSPECTOR