



Costs Decision

Site visit made on 8 April 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Costs application in relation to Appeal Ref: APP/F3545/W/24/3346060

Land North Side of Water Lane, Little Whelnetham, Suffolk

- 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 Karl Shelley for a full award of costs against West Suffolk Council.
 - The appeal was against the refusal of planning permission for the change of use from agricultural land for the siting of five holiday units (Class C1), new access road and parking.
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Decision

1. The application for an 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. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant is seeking a full award of costs on substantive and procedural grounds, relating to a lack of objective analysis of the proposal's effects and the Council's handling of the application. This alleged unreasonable behaviour led to the unnecessary expense of submitting the appeal.
4. While the Council's public health and housing team did not object to the proposal, this was predicated on, amongst other things, the northern most straw bale hut being moved away from the shared boundary. However, this was not the proposal that the Council based their decision on. The Council were therefore required to make a judgement about the proposal's effect on the living conditions of neighbouring occupiers. Even if the applicant may disagree with certain matters raised, the principle of making a planning judgement is well-founded.
5. Notwithstanding that the effects on living conditions from noise and disturbance can at times be difficult to quantify, the reason for refusal provides specific information to allow an understanding of the alleged harm and conflict with the development plan. Moreover, the fallback position was taken into account which in the Council's view did not outweigh the policy conflict that they had identified. This brings me to conclude that the reason for refusal was adequately substantiated and no unreasonable behaviour occurred in this regard.

6. The period of time it took to determine the application is far in excess of the timeframe that could reasonably be expected given the nature and extent of the application. Despite the applicant's agreement to an initial extension of time, it was another fourteen months before a decision was issued. Added to this, the constancy of communication, with long periods of time without any co-operation, has compounded the applicant's unsatisfactory experience. The Council has not provided any justification for the time taken to determine the application which is regrettable.
7. Further maladministration at the planning application stage is also alleged, in the erroneous making of a Tree Preservation Order (TPO) that was subsequently found to be invalid. However, even if I were to consider that this matter, and the above timeliness amounted to unreasonable behaviour, it has not directly caused the applicant to incur unnecessary or wasted expense in the appeal process. In other words, it does not follow that if the Council had communicated more extensively, and the delays hadn't occurred from the invalid TPO that this would have necessarily led to the planning application being granted.
8. During the determination of the application the Council were presented with a revised layout plan removing the northern most proposed straw bale hut and correspondence setting out that the applicant was agreeable to an amended description of development to reduce the scale of the proposal to five holiday let units. It appears that the Council provided no response. In addition, upon receipt of the decision notice, the applicant contacted the Council again to raise the issue of resubmission of the scheme based on the revised plan and reduced scale of development. In the continued absence of any correspondence from the Council on this matter, the applicant allege that they had no option but to submit an appeal.
9. As set out in my decision letter, the revised layout does not fundamentally alter the scheme. Furthermore, taking account of the comments received from public health and housing which indicates that their main concern arose from the proximity of the northern most straw bale hut to neighbouring properties, it is therefore reasonable to conclude that if the amended plan had been taken into account, there may well have been a different outcome to the application. It seems to me that the appeal could therefore reasonably have been avoided.
10. While the Council contend that the applicant had indicated that it was their preference for the scheme to be determined based on the original plan showing a scheme for six units, this is not supported in evidence. Consequently, the Council acted unreasonably in failing to properly exercise their development management responsibilities by not accepting the revised plan or a resubmitted application that could have prevented the need for the applicant to submit the appeal.

Conclusion

11. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

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 West Suffolk

Council shall pay to Mr Karl Shelley 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 West Suffolk 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.

F Harrison

INSPECTOR