



Costs Decision

Hearing held on 21 May 2025

Site visit made on 21 May 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th of June 2025

Costs application in relation to Appeal Ref: APP/U2615/W/25/3358661

Highfield Farm, Heath Road, Rollesby, Norfolk NR29 5HJ

- 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 Paul Thain for a full award of costs against Great Yarmouth Borough Council.
 - The appeal was against the refusal of planning permission for the siting of a static caravan occupied as a single dwelling
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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. In this instance, the applicant alleges that the Council behaved unreasonably by failing to engage with the applicant which ultimately led to the refusal of the planning application and wasted time during the appeal. The applicant states that, following the refusal of planning permission, he sought to re-engage with the Council, with a view to addressing the reasons for refusal, but that the Council declined to engage with the applicant. This ultimately led to the submission of the appeal. It is also stated that the Council determined the planning application prematurely and that a number of the reasons for refusal could have been addressed through the submission of additional information.
3. I note that it is stated that the applicant would have been willing to engage with the Council, both during the course of the application and following its determination. I also note that reasons for refusal relating to the recreational impacts of the proposal on internationally protected wildlife sites and the application's Public Open Space requirements were ultimately addressed through the submission of Section 111 Undertakings submitted by the applicant during the course of the appeal. However, the applicant's submission disputed the requirement for the open space contributions and included a detailed Public Open Space assessment in support of this. Given this, even if the Council had given the applicant the opportunity to address reason for refusal 6 during the course of the planning application, I cannot be assured that this reason for refusal would have been addressed.

4. Whilst noting that it is stated that the payment of contributions towards the Council's Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) was in process at the time of the determination of the planning application, ultimately this necessary contribution and the associated undertaking had not been received by the Council by the time the planning application was determined on 10 July 2024, some 11 weeks after the submission of the planning application and some 2 weeks after the case officer emailed the applicant with confirmation of how to pay this contribution.
5. Whilst it may have been advantageous for the Council to request this information in support of the proposal, it is ultimately for the appellant to ensure that all information in support of their case is submitted with the planning application. In regards to the financial viability of the farming enterprise, criterion b of policy H5 of the Great Yarmouth Local Plan Part 2 (2021) states that "New permanent dwellings outside of the Development Limits for rural workers in agriculture, forestry, or other land-based rural business will be permitted where the applicant can satisfactorily demonstrate the business has been established for at least 5 years, has been profitable for at least 2 years, is currently financially sound, and has a clear prospect of remaining so." This policy makes it clear that it is necessary for the applicant to satisfactorily demonstrate these matters. The applicant, who is professionally represented, should have been aware of the requirement for this evidence in support of the proposal.
6. The applicant also considers that the Council failed to take into account information submitted in support of the planning application and the appeal in support of their claim that there are no alternative properties in the surrounding area. However, the Council clearly substantiate their case in relation to this issue and set out their concerns regarding the applicant's narrow search criteria.
7. As set out in the accompanying appeal decision I have found that the proposal would have an unacceptable effect on the integrity of European sites, in particular in relation to nutrient neutrality. Thus, even if this information had been requested during the course of the planning application, the appeal would have been inevitable in any case. Furthermore, whilst the applicant did ultimately submit a Nutrient Neutrality Assessment and Mitigation Strategy in an attempt to address reason for refusal 8, in correspondence between the applicant and the Council on 17 November 2024 the applicant states that this 'is 'manifestly not a planning matter'. Given the above, even if the Council had requested this information during the course of the planning application, I cannot be assured that it would have been forthcoming, and the appeal would have been inevitable in any case.
8. The applicant also states that Council's unreasonable behaviour is compounded by the fact that the planning application was invited following a positive and proactive correspondence with the Council's Enforcement Officer. However, there is no evidence that the Council's Enforcement Officer made any suggestion that the outcome of the planning application would be favourable. Indeed, I note that the Council's enforcement policy states that the Council will advise of the right to apply for the relevant planning permission, and that all applications for planning permission are considered on their merits with no guarantee of approval.
9. The applicant states that the submission of the Council's comments on the submitted Nutrient Neutrality document 2 working days before the appeal hearing amounted to unreasonable behaviour. The lack of comments from the Council's

ecologist is also referenced. The Council provided comments on the submitted Nutrient Neutrality documents within the timescale set by the Inspector. Such actions cannot be construed as unreasonable behaviour, in particular noting the length of the documents submitted by the applicant upon which comments had been sought. Whilst the comments of the Council's ecologist would have been advantageous, there is no suggestion that the Council refused to engage with their own colleagues, in particular noting that the Council were only given 10 days in which to respond to these documents. In any case the Council did provide comments on these documents.

10. The applicant raises a concern with the lack of engagement with the Council during the Statement of Common Ground (SoCG) process including the Council's submission of comments on the SoCG close to the deadline. However, the Council submitted their comments within the timeframe set by the planning inspectorate. Nonetheless, revision 6 of the SoCG was submitted to the Planning Inspectorate on 21 March 2025. This document agreed that the requirement for public open space and GIRAMS contributions were matters which are no longer of specific disagreement subject to the payment of contributions. Notwithstanding this, on 16 May 2025 the Council stated that, due to fee increases on 01 April 2025, the necessary contributions towards GIRAMS and public open space provision had not been made, and thus these 2 refusal reasons had not been addressed.
11. The SoCG, in which it was agreed that these refusal reasons had been addressed, was agreed only 11 days before the fee increases on 01 April 2025. The Council would have been aware that the appeal hearing was scheduled for 21 May 2025, and that a decision would not be made on this appeal until after the scheduled fee increase. When making the contribution requested by the Council, the applicant would have had the reasonable expectation that, once paid, these refusal reasons would be addressed and there is no suggestion that the Council themselves were unaware of the imminent changes in these fee schedules. The request for additional contributions and updated Section 111 Undertakings when this matter had previously been agreed within the SoCG represents unreasonable behaviour which led to wasted time and expense for the applicant in preparing the updated Section 111 Undertakings.

Conclusion

12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the preparation of the updated Section 111 Undertakings and a partial award of costs is therefore warranted.

Costs Order

13. 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 Great Yarmouth Borough Council shall pay to Paul Thain, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the preparation of the updated Section 111 Undertakings.

N Robinson

INSPECTOR