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## Costs Decision

Site visit made on 28 May 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

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### **Costs application in relation to Appeal Ref: APP/F1040/W/25/3361524**

#### **73 Coton Park, Linton, Swadlincote, Derbyshire DE12 6RF**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Adil Abbasi for the Roots Care Group Ltd for a full award of costs against South Staffordshire Council.
  - The appeal was against the refusal of planning permission for change of use from dwelling (Use Class C3) to children's home (Use Class C2) without complying with a condition attached to planning permission Ref DMPA/2024/0771, dated 4 June 2024.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The PPG states that a local planning authority may be at risk of an award of costs if it imposes a planning condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with paragraph 57 of the National Planning Policy Framework (the Framework). Authorities may also risk a costs award if they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The Council has refused to delete or vary a condition that restricts the permitted use of the premises as a Use Class C2<sup>1</sup> children's home to a period of 2 years from roughly the date of the permission. The effect of the condition is that the use of the property would have to revert back to a Class C3 dwellinghouse in October 2026 unless another permission was to be granted in the meantime.
5. The claimant submits that the condition is not necessary or reasonable. It is argued that a trial period is not needed because the use would not necessarily be more intensive than a Class C3 dwellinghouse use and that no evidence has been produced to show that the children's home would be more disruptive than a Class C3 dwellinghouse use. It is also argued that the 2 year period gives insufficient time

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<sup>1</sup> Town and Country Planning (Use Classes) Order 1987 (as amended)

for the children's home to become operational and to be appropriately reviewed, particularly bearing in mind the need for other approvals such as by the Office for Standards in Education (OFSTED). The Council responds that its Planning Committee considered it necessary to retain condition to allow effective review of the children's home use, to enable evaluation of the management of any potential amenity impacts.

6. I note that the decision refusing to delete the condition was taken by the Council's Planning Committee against the advice of its planning officers. The Committee did, however, follow the advice of its Environmental Protection Team supporting retention of the condition. The Committee decision was therefore taken in accordance with relevant professional advice. I find no fault in this regard.
7. Nevertheless, no specific evidence has been submitted by the Council to show why the children's home use would be likely to cause undue noise or disturbance to neighbours or otherwise harm local amenity. The specific situation at this property has not been appropriately analysed and no examples of problems at other sites have been put forward to justify the time restriction.
8. The Council's case instead seems to be based on the unsupported assumption that children's homes are likely to be problematic, despite the many controls available through planning and other legislation. In particular it is notable that other conditions of the existing permission require adherence to an approved noise management plan and limit occupancy to just 3 children, a number which might well be met or exceeded in a Class C3 dwellinghouse use of this 4 bedroom house.
9. The tight timetable of the time limit condition would be insufficient for an effective review of the new use in any case. It would also be likely to undermine the investment needed for the change of use and would potentially destabilise the living situation of the children in care. The Council has not produced any specific justification for the time period.
10. In my main decision I find that the condition is not necessary or reasonable. Nothing submitted by the Council in the main appeal case or in response to the costs claim provides a reasonable justification for this short term condition. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

11. 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 South Staffordshire Council shall pay to the Roots Care Group Ltd 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.
12. The applicant is now invited to submit to South Staffordshire Council, to which a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Les Greenwood*

INSPECTOR