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## Costs Decision

Site visit made on 14 July 2025

**by G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> of July 2025

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### **Costs application in relation to Appeal Ref: APP/Y2620/W/25/3361362**

#### **10 Church Street, Sheringham, Norfolk NR26 8QR**

- 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 DPSK Ltd for an award of costs against North Norfolk District Council.
  - The appeal was against the refusal of the Council to grant planning permission for change of use of ground floor former shop (Class E) to hot food takeaway (no specified use class), installation of extraction and ventilation equipment; external alterations.
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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 identifies that examples of types of behaviour that may give rise to an award of costs includes preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal, vague, generalised or inaccurate assertions about the impact of a proposal which are not supported by objective analysis and not determining similar cases in a consistent manner.
4. The application refers to the fact that Council Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate reasoning to do so.
5. The decision in this case called for a judgement to be made as to whether the proposed use would result in an over proliferation of other uses in the town centre and whether the proposal would result in harm to the living conditions of occupants, in terms of increased noise and disturbance. Both of these matters relate to a qualitative assessment, and it is possible that there could be more than one plausible judgement. Council Members were therefore entitled not to accept the professional advice of Council Officers so long as a case could be made for the contrary view.
6. With regard to the assessment relating to the mix of uses within the primary retail frontage and the town centre, various assessments were provided by different parties. However, given the policy test set out in the development plan, in terms of the number of other uses, other than retail, which would be acceptable was not

reflective of the current Use Classes Order (UCO), there was scope to consider the impacts using a wider assessment. I note that the applicant raised the changes to the UCO and the underlying aim of those changes to provide greater flexibility in the uses within town centres. However, I find that the approach taken by the Council was not unreasonable and that the mix of uses in such locations can still form a material consideration. I also find that the weight given to the quantitative test set out in the policy was a matter of planning judgement.

7. With regard to the issues raised around noise and disturbance, whilst I accept that this issue was not raised by the Environmental Health Officer, it was not unreasonable for the Council to identify this as a concern, particularly given the responses provided by neighbouring occupiers. The applicant submitted a report with the appeal that assessed such impacts, and I have found that it has now been demonstrated that the proposal would not cause unacceptable harm in this respect. Nevertheless, this evidence was not before the Council at the time it made its decision.
8. The applicant suggests that no other application for a hot food takeaway within the Council area, since the adoption of the current development plan was required to provide an assessment relating to the noise impacts of delivery activities. However, I have limited evidence before me on that matter.
9. There is no evidence before me that the proposed occupier of the unit was the Council's only or main consideration that informed its decision.
10. Whilst I did not share the conclusions of the Council, I am satisfied that it gave a reasoned assessment for the decision. As a result, I cannot agree that the Council has acted unreasonably in this case.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not warranted.

*G Dring*

INSPECTOR