



Costs Decision

Site visit made on 7 July 2025

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th of July 2025

Costs application in relation to Appeal Ref: APP/V2635/W/25/3362666 Frogs Hall, Barwick Road, Stanhoe, Norfolk, PE31 8PY

- 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 D Symington for a full award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a proposed site for holiday accommodation.
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Decision

1. The application for a substantive partial 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.
3. The appeal proposal was subject to pre-application advice in April 2019 and a previous application submitted in 2022 and refused in June 2023. The pre-application advice was sought for 42 holiday caravans accessed via the existing site entrance off Barwick Road. Despite concerns relating to scale, the appellant submitted a scheme for 46 caravans, from a new access off Fakenham Road. Given that the Council had expressed concerns relating to scale, it did not behave unreasonably in then refusing planning permission for an increased number of caravans. Nor did the Council behave unreasonably by raising highway safety concerns to a new access that had not formed part of the pre-application enquiry.
4. A re-submission was made, which included a Highway Statement that sought to address the previous highway reasons for refusal. Whilst I acknowledge that the highway authority did not provide a consultation response prior to the decision being issued, the local planning authority is responsible for making the final decision, and if it is not able to assess technical information itself, then it should chase up its consultees or seek advice from elsewhere. There is no evidence before me that the LPA had any good reasons or evidence of its own to disregard the findings of the professional assessment that had been undertaken and submitted to them to address the previous highway reasons for refusal. The officer report details the findings of the Highway Statement, which was a material consideration of significant weight, and does not dispute them. It was irrational to then go on and refuse planning permission on highway grounds. The highway authority has not upheld its objections made to the 2022 application or defended the Council's highway reasons for refusal on the case before me, confirming that

the submitted information addresses their previous concerns. There is no evidence before me to defend the council's highway safety reasons for refusal. The failure to have proper regard to a material consideration amounts to unreasonable behaviour, which resulted in the appellant having to incur costs to further defend the highway reasons for refusal at appeal. The fact that the Council was intending to refuse planning permission anyway on other grounds does not justify this.

5. The re-submission was also subject to a new reason for refusal, relating to noise, odour and dust, which had not been raised either at pre-application stage or in relation to the previous application for the same development. The Council's only justification for this was that its Community Safety and Neighbourhood Nuisance Team raised an objection that had not been raised at pre-application stage or to the 2022 application. However, it is the responsibility of the local planning authority to assess consultation responses, query them where necessary and to decide what weight to give these in reaching a decision. One of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.
6. The site was always in the countryside surrounded by roads, and by agricultural land, which could at anytime be used to keep livestock on. I have not been advised that the wastewater treatment plant did not exist previously or that road noise has materially changed since 2023. The proposal is for holiday accommodation only and despite other residential dwellings and holiday sites being located as close to the road and closer to the wastewater treatment plant and fields housing pigs than the appeal site, the consultation response did not indicate that there had ever been any complaints regarding noise, dust or odour from these sources to justify withholding planning permission for holiday accommodation or to justify the need for further assessments relating to these matters.
7. The PPG is clear that local planning authorities will be at risk of a substantive award of costs where they fail to produce evidence to substantiate each reason for refusal on appeal, make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and for not determining similar cases in a consistent manner.
8. Despite the previous pre-application advice, reasons for refusal and clear policy requirements, the proposal was not reduced in scale and the application was resubmitted without a business plan that specifically related to the proposed business/development of the site, and without the additional surveys recommended by the appellant's own professional advisors in the 2021 Preliminary Ecological Survey, which the appellant has had plenty of opportunity to address since 2021, despite the seasonal nature of some survey requirements. The Council did not therefore behave unreasonably in refusing planning permission on these grounds. I have no reason to doubt that had the Council been minded to grant planning permission, the appropriate GIRAMS contribution would have been made or secured via a completed legal agreement.
9. Although the appeal would have been necessary anyway, due to unresolved issues relating to the scale of the development, and the absence of a business plan, further ecological surveys, and mechanisms to ensure the integrity of European protected sites, as a result of the unreasonable behaviour of the Council, the

appellant has incurred additional costs in defending the highway reasons for refusal, that had already been addressed in their application, and commissioning additional reports in relation to noise, dust and odour, that had not previously been requested and for which there was no justification.

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of defending reasons 2, 3 and 6 of the Council's decision and a partial award of costs is therefore warranted.

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 King's Lynn and West Norfolk Borough Council shall pay to Mr D Symington, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in defending reasons 2, 3 and 6 of the Council's decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to King's Lynn and West Norfolk Borough 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.

R Bartlett

INSPECTOR