
Costs Decision

Site visit made on 26 June 2025

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Costs application in relation to Appeal Ref: APP/Y2003/W/25/3364113

Land at Marsh Lane, Barnetby le Wold, Lincs, DN38 6DJ

- 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 Perry McEvoy for a full award of costs against North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the change of use of land to a private gypsy and traveller caravan site comprising 1 pitch and associated development including use of existing agricultural building for domestic garage and storage.
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Decision

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

Preliminary Matter

2. I have used the description of development above, as I have set out in the formal decision.

Reasons

3. 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.
4. The applicant asserts that the Council have prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, national planning policy and any other material considerations.
5. On the first reason for refusal, the applicant contends that on flood risk grounds the Council have acted unreasonably irrespective of their decision and subsequent decision to not defend the reason for refusal at appeal.
6. From the evidence before me, it appears that the planning application was brought before the Planning Committee on 12 March 2025, it was subsequently deferred for a site visit until the meeting on 2 April 2025. Members moved to refuse planning permission in accordance with the Officers Report, and the date on the decision notice is 4 April 2025. The applicant claims that they advised Members that on 25 March 2025 revised Flood Maps for planning were published by the Environment Agency (EA) demonstrating that the appeal site has been reclassified as Flood Zone 1. Although, this was not recorded on the minutes of the meeting, it does appear that the applicant's representative was in attendance and spoke regarding national maps.

7. An email was copied to the Planning Inspectorate on 7 May 2025 addressed to the applicant's representative to inform them that the EA flood maps show the site located within Flood Zone 1, and therefore they would not be offering any evidence in the appeal statement in relation to the first reason for refusal.
8. In the Council's cost rebuttal, it is acknowledged that the EA updated the flood risk maps in the time between the application being deferred and those committee meetings held between March and April 2025.
9. In line with the PPG¹, Section 25 of the Localism Act 2011 clarifies that a member is not to be regarded as being unable to act fairly or without bias if they participate in a decision on a matter simply because of previous views. However, it goes on to say that Members must not have a closed mind when they make a decision, as decisions taken by those with pre-determined views are vulnerable to successful legal challenge. At the point of making a decision, members must carefully consider all the evidence that is put before them and be prepared to modify or change their initial view in the light of the arguments and evidence presented. Then they must make their final decision at the meeting with an open mind based on all the evidence.
10. Therefore, it is clearly apparent that the Council has acted in an unreasonable manner by pursuing the reason for refusal No.1 relating to flood risk in their decision notice at the time of the application determination, in particular that the flood zones had been amended in advance of this decision.
11. Nevertheless, I do not consider that for this matter and reason for refusal No.1 it has caused the applicant to incur unnecessary or wasted expense in the appeal process. This is due to the Council clearly setting out that no evidence would be advanced relating to this matter, and in my mind the applicant has not had to undertake further work in the appeal process other than highlighting this in the appeal evidence. Moreover, the applicant seems to have been fully aware of this prior to the submission of an appeal meaning it would not have necessitated additional work to be undertaken.
12. Turning, to the second reason for refusal, this relates to foul drainage. The Council's reason for refusal No.2 relates to non-policy compliance with the North Lincolnshire Local Plan Policy DS14. Policy DS14 does not require justification to be provided, it requires satisfactory provision to be made for the disposal of foul and surface water. It further sets out, amongst other matters this can be done either by agreeing details before planning permission is granted, or by imposing conditions on a planning permission. As set out in the formal decision, I have found that it would not be contrary to the development plan if conditions were imposed.
13. Furthermore, the PPG for Water supply, wastewater and water quality does not rule out that there are alternative solutions than connecting to a public sewer, subject to full details being provided and meeting other regulatory controls. Therefore, as the PPG sets out unreasonable behaviour includes preventing or delaying development which should clearly be permitted, having regard to its accordance with development plan, national policy and other material considerations. In addition, the Planning Policy for Traveller Sites, and the National Planning Policy Framework including where 11d) is engaged requires consideration of planning conditions to make a development acceptable.

¹ PPG Determining a planning application - Paragraph: 018 Reference ID: 21b-018-20140306

14. In this case, the planning permission was prevented where a planning ground was capable of being deal with by conditions, and where it can be concluded that suitable conditions would enable the development to go ahead. The full reasons for this are set out in the formal decision.
15. I have no substantive evidence to successfully conclude that the applicant was not aware of the EA letter of 21 January 2025. Nonetheless, I see no reason why the Council could not have sought to engage for further information at that time. The applicant has gone on to provide further evidence to defend this reason for refusal. Therefore, I consider it has caused the applicant to incur unnecessary or wasted expense in the appeal process to defend this reason for refusal and to pursue an appeal on the second reason for refusal.
16. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect only of the second reason for refusal and on foul drainage and a partial award of costs is therefore warranted.

Costs Order

17. 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 North Lincolnshire Council shall pay to Mr Perry McEvoy, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to reason for refusal No.2 and foul drainage; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to North Lincolnshire 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.

K A Taylor

INSPECTOR