



Costs Decision

Site visit made on 23 July 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Costs application in relation to Appeal Ref: APP/B3030/W/25/3366276 Smallholding to rear of No. 55 Beacon Hill Road, Newark, Nottinghamshire NG24 2JH

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard Griffin for a full award of costs against Newark & Sherwood District Council.
 - The appeal was against the refusal of permission in principle for residential development of two to four dwellings following demolition of agricultural buildings.
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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. Unreasonable behaviour can be procedural or substantive.
3. The applicant contends that the Council has acted unreasonably for several reasons. This includes not following its Planning Committee protocol; failing to ascribe appropriate weight to material considerations, specifically the National Planning Policy Framework (the Framework) with respect to the application of the presumption in favour of development and its officer's advice on this matter; and providing vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by objective analysis.

Material Planning Considerations and the Proposal's Impact

4. The PPG sets out that a decision on whether to grant permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the Framework and national guidance, which indicate otherwise. From the officer report and transcript of the Planning Committee meeting (the transcript), Members of the Planning Committee were aware of the lack of a five-year supply of deliverable housing sites and that paragraph 11 d) of the Framework was therefore triggered. It is clear from the officer report that this was identified as an important material consideration.
5. However, this does not mean that permission has to be granted. The planning balance still needs to be undertaken. In this case, the Planning Committee took a

different view to officers in terms of the weight to be ascribed to the benefits of the proposal and its adverse impacts, which, as the decision maker, it is able to do.

6. The Planning Committee is not duty bound to follow the advice of its officers as long as its contrary decision is made on planning grounds and clear evidence is provided to substantiate that reasoning. Members identified the benefits of the proposal, including the contribution to the supply of deliverable housing sites, and their concerns. The reason for refusal articulates the harm that the Planning Committee considered would be caused to the character and appearance of the area, which is a matter of judgement, and this is framed within the context of the development plan.
7. While paragraph 11 d) of the Framework is engaged in this case, it does not automatically follow that the policies which are most important for determining the proposal are out-of-date in substance. The development plan policies referred to in the reason for refusal are not inconsistent with the policies in the Framework for securing well-designed places where they seek to ensure that developments are sympathetic to local character.
8. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I find this to be the case here, notwithstanding that I came to a different view.

Procedural Failings in the Planning Committee's Decision Making

9. Officers do not appear to have been given a specific opportunity to set out the implications of a decision contrary to officer recommendation once it was clear that this was the likely outcome, in line with the Council's 2025 Protocol for Planning Committees (the Protocol). However, based on the information set out in the officer report and the transcript, it is evident that Members of the Planning Committee understood the planning position. Consequently, this lack of opportunity does not represent unreasonable behaviour that has resulted in unnecessary or wasted expense, as, given my view on the matter of the weight given to material planning considerations above, the appeal would not have been avoided.
10. As set out in the transcript, to commence the debate on the planning application, the recommendation needs to be moved and seconded. This was done by the Chair and Vice Chair respectively. This was a procedural matter and does not mean that these Members would be required to vote in favour of the proposal. Public speaking then took place, followed by questions from Members of the Planning Committee and the debate on the planning merits of the proposal. That the Vice Chair then voted to refuse the application having listened to the information provided through public speaking, questioning of officers and the Members' debate does not represent unreasonable behaviour. Indeed, paragraph 11.1 iv. of the Protocol states that, following the officer presentation, *'the Chairman will propose and another member of the planning committee, usually the Vice Chairman will second the officer recommendation (noting that this does not fetter their ability to vote to the contrary after taking all relevant matters into account'*.

Failing to adhere to the Protocol for Public Speaking at the Planning Committee

11. Paragraph 12.2 of the Protocol sets out that those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the Council in writing. The written objection submitted by the parish council referred to Policy DM5 of the DPD¹ and over intensification. A parish council member spoke against the proposal at the Planning Committee. The transcript identifies that the parish council member raised concerns about backland development, additional traffic, the countryside location, proximity to a nature reserve and precedent that may be set.
12. Policy DM5 of the DPD sets out criteria that proposals will be assessed against. This includes access, local distinctiveness and character, and ecology. Under local distinctiveness and character, specific requirements are set out for backland development, including setting a precedent. Consequently, while the verbal presentation was more detailed than the written submission, it would not be unreasonable to interpret it as amplifying the written objection. Additionally, there is no clear evidence to substantiate the contention that these were personal views rather than those of the parish council.
13. The parish council member was not part of the Planning Committee and so did not take part in the vote which determined the formal decision on the proposal. Their presentation where they referred to operating on the principle of no backland development cannot therefore be taken as the Planning Committee pre-determining its position.

Conclusion

14. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

F Wilkinson

INSPECTOR

¹ 2013 adopted Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document