
Costs Decision

Site visit made on 8 September 2025

by Jonathan Price BA(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

**Costs application in relation to Appeal Ref: APP/D0515/W/25/3365976
317 Wisbech Road, Westry, March, Cambridgeshire PE15 0GB**

- 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 Nigel Marsh for a full award of costs against Fenland District Council.
 - The appeal was against the refusal to grant approval for reserved matters over access, appearance, landscaping, layout and scale in pursuance of condition No 1 attached to planning permission Ref F/YR20/0905/O dated 25 November 2020 for the erection of up to three dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals normally meet their own expenses, but 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. Such behaviour may be procedural, relating to how the matter leading up to the appeal was dealt with, or substantive, in respect of why the decision was made.
3. This application is mainly based on substantively unreasonable behaviour, with reference to examples which may give rise to a costs award against the Council provided by the PPG¹. It was not unreasonable in principle for the planning committee to have refused planning permission contrary to the recommendation made by its officials. However, the Council was still bound to adequately substantiate its decision, including whether or not conditions might address the concerns. In this regard, I am mindful that outline planning permission is granted for the described development, which is for up to three dwellings. Therefore, whether this development was acceptable in principle cannot be altered on grounds of adequate foul and surface water drainage and waste collection arrangements.
4. I note from the committee minutes that the Council's legal officer had warned of a risk of costs in refusing planning permission on planning grounds capable of being dealt with by conditions. As is its prerogative, the Committee made its decision cognisant of this. The significant deferral period of some six months, without the applicant providing the further technical information sought by the Council, did not

¹ Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

in my view make it substantively reasonable to refuse reserved matter approval, rather than making these details the subject of conditions.

5. The Council had also not adequately substantiated its refusal reasons. A single surface water flooding event, from overloaded highway drains during very heavy rain is cited. However, there is nothing to directly link this with the appeal site and the finding that its surface water drainage arrangements could not have been appropriately addressed by condition. The Council had also not substantiated why the foul sewage arrangements justified a refusal reason, rather than securing the final details through a condition.
6. Refuse collection arrangements had not been the subject of a specific condition of outline planning permission. The Council is responsible for providing this service for the three dwellings which benefit from planning permission. Even accepting this was a layout issue and subject to reserved matter approval, the Council had not adequately substantiated why the collection arrangements proposed were inherently unsuitable or could not be acceptably addressed by condition.
7. The Council had failed to produce evidence to substantiate its refusal reasons, on grounds capable of being dealt with by conditions, where the risk of a cost award is clearly signalled by the PPG. Based on my conclusion in the planning appeal, and the further evidence supporting this application, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Fenland District Council shall pay to Mr Nigel Marsh 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.
9. The applicant is now invited to submit to Fenland District 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.

Jonathan Price

INSPECTOR