



Costs Decision

Site visit made on 13 August 2025

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 20th October 2025

Costs application in relation to Appeal Ref: APP/V2635/W/25/3369175
18 Tuesday Market Place, Kings Lynn, Norfolk, PE30 1JW

Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. In this case, the appellant argues that the Council acted unreasonably in firstly, determining the application before the appellant had a chance to respond to the second response of the Environment Agency (the EA), secondly in following the EA's guidance when not obliged to do so and thirdly in allowing the issue of noise to be raised by a Council officer during the appeal despite this not forming a reason for refusal. These actions resulted in an unnecessary appeal, caused unnecessary work during the appeal and consequently resulted in wasted expense.
4. The application was registered on 26 February 2025 with a flood risk assessment which the EA responded to on 21 March and, following the submission of further information by the appellant, on 24 April. The appellant was made aware of this response and replied with an email on 9 May and further responses on 13 May and 19 May before the application was refused on 20 May. The appellant thus had ample time to respond after 24 April and indeed did so. Given the appellant's responsibility to submit a comprehensive and accurate flood risk assessment with the application at the outset, it was not unreasonable to determine the application on that date.
5. It was not unreasonable for the Council to follow the advice of the EA as the EA are the official expert consultee on flooding matters.
6. The Council's Community Safety and Neighbourhood Nuisance team did not submit comments to the planning case officer on this occasion having commented on previous applications for the premises. Nevertheless, the matter was raised in the Council's officer report and thus was not a new issue causing surprise to the appellant when raised during the appeal consultation period. The point could have been raised as an 'other matter' in the Council's main appeal case but the fact it was raised separately as a consultee did not prejudice the appellant who was able to respond at final comments stage. The submission did not claim the status of an

additional reason for refusal added at a late stage which might have amounted to unreasonable behaviour.

7. The appellant also argues that costs should be awarded against the EA as they were said to have behaved unreasonably, but there is no provision for an award of costs against a statutory consultee in a written representations case unless the power to direct refusal has been exercised or where they are a direct party to an appeal, not just a consultee as was the case here.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR