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## Costs Decision

Site visit made on 9 September 2025

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 October 2025.**

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### **Costs application in relation to Appeal Ref: APP/K0425/W/25/3368114 Shrublands Day Hospital, 47 Queens Road, High Wycombe, Buckinghamshire HP13 6AQ**

- 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 Nearton End Ltd for a full award of costs against Buckinghamshire Council - West Area (Wycombe).
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for development described as '1.5 storey extension including mansard roof and replacement of the existing façade to provide an additional 12 apartments with associated car parking, cycle and bin stores, amenity space and landscaping with internal alterations to 5 apartments previously approved under PN 24/07900/PNPCR'.
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### **Decision**

1. The application for an award of costs is refused.

### **Procedural Matter**

2. During the appeal, the Council provided comments on a unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 restricting access to residents parking permits. In its response to these matters, the applicant raised a further ground on which it was seeking an award of costs. This was because it asserted the Council had changed its position from the advice originally given. I have sought comments from the Council and final comments on those from the applicant. I have taken these into account in this 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 the Council has behaved unreasonably on several substantive grounds. The applicant submitted an appeal against the non-determination of the planning application after the statutory target date for determination of 18 June 2025 was missed. The appeal was lodged 5 days later and the Council notified shortly after.
5. The applicant states that the Council failed to engage with them during the application process and did not consider all the information submitted. This relates to information about daylight and sunlight, overshadowing and the site's location within a conservation area (CA). The information was not uploaded to the Council's planning register.

6. The applicant was informed by the Council during the application process that it was not obliged to accept further information. The Council was within its rights to do so, particularly if this would have required further consultation. The Council has explained that it did not consider the additional information relating to light was sufficiently robust or complete in its coverage. In my appeal decision, I also identified that the report did not provide me with sufficient information to provide certainty that light to neighbouring properties would not be adversely impacted. I share the Council's view in this respect.
7. The Council did not expand on its reasons in respect of the Townscape Characterisation Appraisal and Townscape Visual Impact Assessment (May 2025), in its response to the costs application. However, I note that this was submitted some weeks after the application had been validated. There is nothing before me to suggest that this was done because accepting it would be inconvenient as alleged by the applicant.
8. The Council did however accept some additional information submitted shortly after the application submissions, notably in respect of a viability report. The Council commissioned an assessment of this. This is not indicative of the Council failing to work with the applicant. The Council accepted the findings of the viability report and matters relating to this are not contested as part of the appeal. Whilst there has been some dispute between the parties in respect of disclosure of this information, that is not a matter relevant to the appeal considerations and any costs incurred in the appeal process.
9. The Council has explained why it was not able to determine the application in accordance with the statutory timescales. This was directly related to the viability assessment. The Council did not request an extension of time but this does not amount to unreasonable behaviour by the Council.
10. The applicant exercised their right to appeal. However, there is nothing before me to suggest that had the applicant waited for a decision from the Council, the outcome would have been different. Even considering the submissions in response to the Council's statement of case at the appeal stage, the Council maintained its objection to the scheme in respect of character and appearance, heritage impacts, highway concerns and the impacts on neighbouring occupiers. It will be seen from my decision that I have reached similar conclusions. It follows therefore that I do not find that the Council has persisted to defend reasons for refusal which could not be objectively justified.
11. The Lead Local Flood Authority (LLFA) objected to the application due to the lack of information relating to surface water flooding. The applicant responded to this but no further response was received from the LLFA until after the appeal had been lodged. The Council identified drainage within its putative reasons for refusal. On the basis of the applicant's clarification on this matter, it would have been possible for the Council to have concluded that the LLFA's objection could not be sustained. It did not do so until after the applicant's final comments. Whilst this amounts to unreasonable behaviour by the Council, the applicant response on this matter was a short narrative comprising a few paragraphs within their final comments but there is no evidence of any detailed response on this matter. In this regard, I do not see that the applicant has incurred unnecessary and wasted expense in the appeal process in responding to this matter at this stage.

12. Pre-application advice for the extension of the appeal building was sought by the applicant prior to its formal submissions. Concerns were raised in respect of highways, the CA and design. At the pre-application stage, the Council found that matters in respect of the CA were acceptable. Its position changed with the application. However, there is nothing unreasonable in this given the application proposal was for a larger and more prominent extension. The presence of other developments have been adequately addressed by the Council in defending the appeal and I have reached similar conclusions.
13. The applicant highlights inconsistencies between the way the Council assessed parking for the conversion and extension of Harlow House and the appeal scheme. It will be seen from my decision notice that, whilst I acknowledge the difference of approach, the Council has provided evidence and reasons for its concerns about parking levels relating to the appeal scheme and I have agreed with its findings.
14. The Council found the proposed extension design, which included a mansard roof, to be unacceptable. While other nearby developments with mansard roofs were deemed acceptable in terms of their impact on the CA, they were not considered sufficiently comparable to justify approving the appeal proposal. The Council assessed the appeal on its own planning merits and explained its reasons for finding harm. It did not act unreasonably in reaching its decision.
15. The applicant asserts that the Council has failed to have regard to important parts of the National Planning Policy Framework, notably in respect of highway safety, design and making effective use of land through the redevelopment of previously developed land and giving this appropriate weight given its sustainable location within a settlement. The Council has considered these matters including the benefits. It has not concluded on specific Framework paragraphs however it has provided justified reasons for its opinions. Whilst I have reached a different conclusion regarding the application of paragraph 11, that is a matter of planning judgment. The Council reached a different conclusion because it gave greater weight to the heritage harm within its heritage balance. Its reasons were clear. This is not indicative of unreasonable behaviour by the Council.
16. The Council's highways officer, in its consultation response on the planning application, recommended two ways to address issues relating to overspill parking, one that a parking survey be carried out, alternatively that a UU is secured that prevents residents from obtaining parking permits. However, the Council did not request a UU, nor did the absence of such form part of the Council's putative reason for refusal. The applicant chose to submit an executed UU during the appeal process as part of its response to the Council's statement of case.
17. There is no evidence that the submission of a UU was discussed with the Council before being submitted during the appeal stage. Following review by the Council's solicitors, it was established that the UU would not be legally binding and would therefore not be effective in preventing additional parking pressures. The Council has not acted unreasonably because it did not request the UU in the first instance and the costs associated with its review are a standard requirement, irrespective of the outcome of the application or appeal to which the legal agreement relates. I do not therefore find that this is unreasonable behaviour by the Council that has caused the applicant to incur unnecessary and wasted expense in the appeal process.

18. It will be seen from my decision that I have agreed with the Council's assessment of the appeal proposals. Whilst the applicant may not agree with the Council's position, this does not mean that the Council has not justified its position. Much has been made of the pre-application advice, but from the submissions, it is evident that the application scheme was materially different to that submitted for pre-application advice. The Council was not unreasonable in reaching a different conclusion on the scheme before it.
19. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*Rachael Pipkin*

INSPECTOR