



Costs Decision

Site visit made on 4 November 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2025

Appeal Ref: APP/Z5630/W/25/3367748

Thetford Lodge Rest Home, 16 Thetford Road, New Malden KT3 5DT

- 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 Kingsbury Investment & Development Group Limited for a full award of costs against Royal Borough of Kingston Upon Thames.
 - The appeal was against the refusal of planning permission for change of use from Use Class C2 (care home) to Use Class E(f) (nursery), installation of refuse storage, cycle store, creation of external garden/play areas and reconfiguration of car park.
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Decision

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

Reasons

2. 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. The applicant seeks a full award of costs, asserting that the Council's behaviour prevented development which should have clearly been granted, that their reasons were flawed and that accordingly an appeal was unnecessary.
4. The Council found that the proposal conflicts with a number of policies of the Core Strategy and the London Plan. They also undertook a planning balance exercise, which included recognition of support for nursery provision but placed substantial weight on the current low level of housing supply as a material consideration. They were clearly aware that the building was vacant. Concerns were also raised about viability due to the passage of time, with the updated information submitted only at the appeal stage.
5. The applicant takes a very different interpretation of policy DM14 from that of the Council. Whilst the figure of a net equivalent loss of 17 C3 residential units is somewhat misplaced in relation to policy DM14, as there is a difference between a numerical figure for monitoring purposes and the physical provision of accommodation, the Council did set out their rationale. Moreover, the quantitative aspect does not change the Council's position that there would be a loss, as the proposal is not for a residential use.
6. In my main decision, I have found that the proposal would not conflict with some of the policies cited by the Council; however, my overall interpretation of policy DM14 aligns with that of the Council in terms of the loss of residential. There is therefore a conflict with the development plan.

7. Although the applicant takes a different approach, and there are aspects where, in my decision, I have found in favour of the appellant, the Council exercised their duty to determine the planning application in a reasonable manner. While the Council refer to the planning history, there is no specific evidence before me that the Council were not considering the scheme before them, or that they were speculating on a different use and seeking to unnecessarily delay development. As such, I do not find that the Council's behaviour was unreasonable, and given the opposing position on the main issue, an appeal could not have been avoided.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

G Ellis

INSPECTOR