



## Costs Decision

Hearing held on 19 November 2025

Site visits made on 18 and 20 November 2025

by **K Stephens BSc (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 December 2025

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### **Costs application in relation to Appeal Ref: APP/J0540/W/25/3367425**

#### **Land East of 29 Peakirk Road, Glinton, Peterborough PE6 7LT**

- 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 Hereward Homes Ltd for a partial award of costs against Peterborough City Council.
  - The appeal was against the refusal of planning permission for the construction of 24 dwellings.
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### **Decision**

1. The application for a partial 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. The PPG also indicates that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense, and this can relate to the entire appeal or only part of the process.
3. The appellant's claim is that the Council (in particular its legal department) acted unreasonably during the preparation of the required s106 legal agreement (the s106). A lack of co-operation and failure to provide tracked changes in various re-drafting of the document caused the appellant to incur significant additional legal costs and unnecessary expense. The Council refuses this.
4. The PPG gives examples of the types of behaviour that could give rise to a procedural award of costs against a local planning authority. They are not exhaustive but include lack of co-operation with the other party, or delay in providing information or failure to adhere to deadlines.
5. The Procedural Guide: Planning appeals - England, requires that a draft s106 is sent to the Planning Inspectorate no later than 10 working days before the hearing. The hearing was scheduled for 19 November, so 10 working days beforehand was the 5 November.
6. As part of the appeal process and intent on adhering to the appeal timetable, the appellant sent a draft s106 to the Council in June, and following no response submitted an amended draft in September. In October the Council submitted a different template, apparently due to formatting issues that prevented tracked changes. As some issues had not been commented on the appellant also produced a Unilateral Undertaking as an alternative course of action. In early November the

Council's legal department commented that the drafting was nearing completion. It appears that a number of drafts had been prepared and the appellant sought to chivvy the Council to respond a number of times in order to have a final draft ready in time.

7. I sent a pre-hearing note on 29 October giving the parties until 12 November to submit a final draft of the s106. This date was 1 week before the hearing and so gave the parties a little longer than the Procedural Guide's suggested timescale. Another draft s106 was submitted as part of the pre-hearing timetable so I was able to read it before the hearing commenced. However, the appellant was still waiting for confirmation from the Council about redrafting and hence was unable to submit a 'final draft'.
8. Nonetheless, at the hearing I was presented with a final draft. I saw that most of the previous drafting errors had been resolved, but I had a number of points requiring clarification. At the hearing and after mutual agreement, I gave the parties 2 weeks in which to address them, correct the remaining drafting issues and get the document signed and dated. I received a final signed and dated s106 on 3 December, ahead of the agreed two-week deadline of 5 December.
9. The fact the Council was unable to submit a tracked-changes version of the s106, apparently due to formatting issues, is not unreasonable behaviour, as the Council was still able to comment on the document's content. Nor is it unusual for multiple draft versions of s106 legal agreements to be exchanged, especially when there are other parties involved. Delays can also arise if there are other parties to liaise and co-ordinate with.
10. I understand that after the hearing some further changes were requested by the Council's legal department, as a full time legal colleague was brought in to assist the other part-time solicitor. It is entirely reasonable for the persons involved to double-check and produce a legally sound document.
11. Even if the Council was slower to respond than the appellant would have liked, the Council have cooperated - drafts versions were exchanged and a final s106 has been submitted to the appeal. This does not amount to unreasonable behaviour.
12. As a prudent measure the appellant produced a Unilateral Undertaking, as an alternative legal agreement should a s106 not be prepared in time. The appellant undertook that course of action fully cognisant of the additional costs that would entail.
13. I find nothing to indicate to me that the appellant incurred significant costs beyond what would normally be expected when producing a s106 and the inevitable exchange of drafts for either side's legal representatives to check and amend. The appellant may well have been frustrated at the time it took the Council to respond, but I have found nothing to indicate to me the Council has acted unreasonably. I had a final draft s106 at the time of the hearing and have since been furnished with a signed and sealed s106 ahead of the agreed timescale. Hence, the appeal has not been affected as a result of any delays that may have occurred earlier in the process.
14. Overall, I find the Council has not behaved unreasonably. Consequently, I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.

## **Conclusion**

15. I find that unreasonable behaviour, resulting in unnecessary or wasted expense at appeal as described in the PPG, has not been demonstrated. An award for costs is therefore not justified.

*K Stephens*  
INSPECTOR