
Costs Decision

Site visit made on 3 December 2025

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3370484 67 - 68 Baxtergate, Whitby, North Yorkshire YO21 1BL

- 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 I Miller for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for 'Change of use from Bank (Class E) to adult gaming centre (*sui generis*)'.
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Decision

1. The application for an 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.
3. Paragraph 49 of the PPG makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, fail to produce evidence to support each reason for refusal on appeal, or make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant's case for a full award of costs references the above elements of the PPG. Their principal concern is that the Council issued an unsubstantiated refusal contrary to the recommendation of its planning officers.
5. I acknowledge that the Council's Planning Committee determined that planning permission should be refused, contrary to the officers' recommendation. Whilst the Planning Committee is not duty bound to follow the advice of its officers, if a different decision is reached the Council has to clearly demonstrate why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. The Council clearly sets out its concerns in the reasons for refusal: *'It is considered that customers approaching, entering and leaving the premises is likely to result in levels of noise disturbance late in the evening and the early hours of the morning, when this part of the town centre is quiet and ambient noise levels are low, which would unacceptably harm the amenities of the occupiers of residential properties in this part of the town centre. Therefore, approval of this proposal would be contrary to policy DEC 4 of the adopted Scarborough Borough Local Plan and paragraph 135 of the National Planning Policy Framework.'*

7. As such, whilst the Committee Members discussed a range of issues, many of which were matters of concern to third parties, I am satisfied that its eventual reason for refusal was clearly evidenced in its decision notice. Although I took a different view on the matter at appeal, the Council's Members were entitled to take the opposite view, contrary to its officers. On the basis of what is before me, I am satisfied that this judgement was exercised reasonably.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR