



Costs Decision

Site visit made on 4 November 2025

by **J Bowyer BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Costs application in relation to Appeal Ref: APP/Y2620/W/25/3368039 Land North of Plumstead Road, Edgefield, Norfolk NR24 2RN

- 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 Mr Charlie de Bono, LIVEDIN for a partial award of costs against North Norfolk District Council.
 - The appeal was against the refusal of permission in principle for 'up to 5 custom and self-build dwellings (as a phased development)'.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ('the 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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples given in the PPG of behaviour that may give rise to a substantive award against a local planning authority include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appeal in this case relates to an application seeking permission in principle. As the PPG explains, the permission in principle consent route has two stages. The permission in principle stage establishes whether a site is suitable in-principle and the technical details consent stage is when the detailed development proposals are assessed. The PPG further confirms that the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted.
5. Part of the Council's fourth reason for refusing the application referred to a failure to demonstrate that suitable, safe access can be delivered. In part, this related to the availability of a pedestrian link along Plumstead Road to connect to the existing footway on the B1149 Norwich Road which would in my view be relevant to consideration of how occupiers would access services and which is therefore directly relevant to the assessment of the location of development.

6. However, its evidence also raised concerns around providing a suitable standard of visibility for any access on the site frontage to Plumstead Road. To my mind, and noting that the Council has provided no substantive evidence to suggest that there would be no feasible access, I am not persuaded that this would relate to the principle of the location, land use or amount of development permitted. Instead, it would relate to detailed matters that would properly be considered at technical details consent stage. Indeed, the County Highways Authority provided comments on the appeal accepting that these matters would be outside of the scope of the permission in principle application.
7. In that context, it was unreasonable for the Council to have included the issue of providing suitable and safe access in respect of highway access to Plumstead Road as a reason for refusing the application for permission in principle. This unreasonable behaviour has caused the applicant to incur unnecessary expense in the appeal process in addressing this aspect of the Council's case.
8. The Council's fourth reason for refusing the application also referred to a failure to demonstrate suitable foul water drainage capacity. In general, I consider that this would also be a detailed technical matter that would properly be considered at technical details consent stage.
9. However, while an acceptable foul drainage solution may be achievable at technical details consent stage, Article 5B(1) of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) ('the Order') provides that permission in principle cannot be given for habitats development¹. As my appeal decision records, the appeal site is located within a nutrient neutrality catchment zone around the Broads Special Area of Conservation which is a European site protected by the Conservation of Habitats and Species Regulations 2017. The applicant has not disputed that matters of foul drainage provision mean that a likely significant effect on the integrity of the Broads cannot be ruled out. They also confirm that habitats matters do not form part of their costs claim, and I am satisfied from the evidence before me that it was not unreasonable for the Council to have found on the basis of the evidence available at the time of the application that the proposal would comprise 'habitats development', for which the Order indicates permission in principle cannot be granted.
10. The Council's second reason for refusal which was predicated on this position was therefore adequately justified and reasonable. Even if I were to conclude that the separate reference to foul water drainage capacity in the fourth refusal reason would amount to unreasonable behaviour, the overlap with matters that would in any event have had to be addressed under the second reason means that I am not persuaded that this would have caused the applicant to incur unnecessary or wasted expense in the appeal process.
11. The Council's fifth reason for refusal relates to harm to landscape and heritage assets. In its report on the application, the Council referred to a lack of arboricultural information to demonstrate if mature vegetation will require removal. I agree with the applicant that detailed arboricultural information would be a matter for assessment at technical details consent stage. Based on my observations of the

¹ defined as development which is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site; and for which the competent authority has not given consent, permission, or other authorisation in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

appeal site however, some removal of vegetation would seem inevitable to accommodate access to a development in this location. While I have found that replacement planting could offer mitigation, this ultimately reflects a matter of planning judgement and there is no suggestion that residential development would not have some effect on the rural character and appearance of the site and Plumstead Road. Furthermore, I note that the Council raised concern around whether the site would be able to accommodate up to five dwellings without the development becoming cramped. To my reading however, this is effectively a supplementary concern, rather than a factor that has underpinned or been the sole reason for refusal.

12. I acknowledge the applicant's concern at the Council's reference to matters of detail, but in my judgement, its substantive concerns in relation to landscape and heritage were not unreasonable and I am not persuaded that its reason for refusal was inappropriately swayed or based on matters of detail such that it would not otherwise have been imposed. As a consequence, I do not find that there has been unreasonable behaviour in relation to the fifth reason for refusal which has caused the applicant to incur unnecessary or wasted expenditure in the appeal process.
13. The applicant also raises concern in respect of how the Council has considered matters relating to provision for self-build and custom housebuilding ('SBCH') and its duty under The Self-Build and Custom Housebuilding Act 2015 (as amended) to grant planning permission in respect of enough serviced plots of land to meet the demand for SBCH arising in each base period.
14. The Council's report on the application asserted in respect of SBCH that the Council has 'an existing permission for up to 30 plots at Fakenham and only 13 people on the register. This more than meets the demand expressed by the register'. However, no further detail was provided to clarify the basis for this assessment or why the figures were so significantly different from those in the applicant's submissions which had been based on Government statistics. Given the significant difference between the parties and that it is clear from the evidence that provision for SBCH was a key element of the applicant's case that permission in principle should be granted, I consider that such detail would reasonably have been necessary to explain the Council's position and enable the applicant to understand its case. Beyond indicating that it disagreed with the applicant's assessment of SBCH, the Council's appeal statement offered no further clarification.
15. It is therefore far from clear to me that the Council relied on robust information during its assessment of the application. Indeed, it later provided comments during the appeal process presenting significantly different figures which raises considerable doubt in my mind that the initial assessment of SBCH was reasonable.
16. The Council's evidence and costs rebuttal refer to the proposal's failure to deliver secured SBCH plots. However, the Council did not argue that matter would be incapable of being resolved, and this would not in any event absolve the Council of a responsibility to conduct its assessment on the basis of appropriate information, including in respect of the SBCH position presented in its report.
17. Moreover, even after the applicant had provided a planning obligation which the Council confirmed would address its concerns about securing SBCH, subsequent comments from the Council discussing SBCH matters still did not engage with the

applicant's evidence in any meaningful or transparent way. Instead, the Council provided only vague evidence setting out updated demand and supply figures that were unsubstantiated by any detail, and which were significantly different from the figures that had been referenced in its officer report with no explanation of the reasons for the differences.

18. Taking the above matters together, I consider that the Council failed to properly engage with the applicant's evidence on SBCH and that its assessment and evidence in respect of this matter was deficient such that the applicant would be left in significant doubt as to the justification for its position. This was unreasonable, and I consider that the lack of clarity and meaningful evidence to substantiate the Council's claimed position would have informed the applicant's decision to appeal in order to seek certainty, and has necessitated the applicant adducing further evidence on SBCH as part of the appeal which might have been avoided had the Council properly presented and substantiated its case.
19. That said, the applicant has not argued that the Council's second or third reasons for refusal were in themselves unreasonable and I have also found above that the fifth reason for refusal was appropriate. Given the balance of these factors, the evidence before me and that the second reason for refusal would have been determinative on the basis of the evidence that was before the Council at the time of its decision, I am not persuaded that the appeal could have been avoided had the Council behaved reasonably in respect of SBCH. A full award of costs would not therefore be warranted.
20. For these reasons, I find that some unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a partial award of costs is justified.

Costs Order

21. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Norfolk District Council shall pay to Mr Charlie de Bono, LIVEDIN the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in:
 - contesting the fourth reason for refusal in respect of the provision of highway access to Plumstead Road, and
 - dealing with the matter of SBCH supply and demand.such costs to be assessed in the Senior Courts Costs Office if not agreed.
22. The applicant is now invited to submit to North Norfolk District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Bowyer

INSPECTOR