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## Costs Decision

Site visit made on 30 March 2026

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2026

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### Costs application in relation to Appeal Ref: APP/A2470/W/25/3375563

#### 1 Wheatlands Close, Ketton, Rutland PE9 3RX

- 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 Gareth Phillipson for a full award of costs against Rutland County Council.
  - The appeal was against the refusal of planning permission for two semi-detached dwellings with access, parking and landscaping.
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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, Planning Practice Guidance (PPG)<sup>1</sup> 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 39 of the National Planning Policy Framework (the Framework) advises that local planning authorities should approach decisions in a positive way and work proactively with applicants. Given the Council's concerns with the proposal, it was reasonable for it to conclude that these matters could not be overcome without the submission of a new planning application. It would have been beneficial for the Council to explain its approach to the applicant prior to determining the planning application. However, it was not required to engage with the applicant on this matter, as such, its failure to do so was not unreasonable.
4. It is common ground between the parties that the proposal is materially different to the previously refused planning application<sup>2</sup>. Nonetheless, there are still similarities between the proposals. Both are for the development of houses on the same parcel of land. Due to the sites constraints and the similarities between the proposals, it is not unreasonable for the Council to have similar concerns and refuse the applications on similar grounds. It is clear from reading the Delegated Report that the Council assessed the proposal for two houses against the development plan taking account of material considerations, in accordance with the Planning and Compulsory Purchase Act 2004.
5. With regard to the Council's assertion that the development would appear cramped, the reasoning within both the Delegated Report and Statement of Case is brief. In

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<sup>1</sup> Planning Practice Guidance, Appeals, Paragraph: 029 Reference ID: 16-029-20140306

<sup>2</sup> Planning application Ref. 2023/0538/OUT

my view the Council has failed to substantiate this aspect of the first reason for refusal. However, the Council clearly sets out why the proposal would be harmful to the open character of the site.

6. The PPG<sup>3</sup> specifies that vague, generalised or inaccurate assertions about a proposal's impact, or failing to produce evidence to substantiate each reason for refusal may give rise to an award of costs against a Council. The Council's assertion on the site's cramped appearance is vague. However, following a review of the proposal and my observations on site, I consider it to be accurate. Moreover, the Council's concern with the proposal's affect on the character and appearance is multifaceted. It has provided further evidence in relation to the effect of the proposal and, therefore, it has substantiated the first reason for refusal.
7. It would have been beneficial for the Council to provide further information to support its assertion that the proposal would have a cramped appearance. However, for the reasons given above its failure to do so in this instance was not unreasonable. Even if I did conclude that the Council had acted unreasonably, the applicant has not incurred unnecessary or wasted expense as I have concluded that the proposal would appear cramped and the appeal has been dismissed.
8. I disagree with the Council's assessment that the proposal would be harmful to the living conditions of neighbouring occupiers and future occupiers of the proposed development. Notwithstanding this, the Council's reasoning on this matter was clear and based upon reasonable planning judgement. It is not necessary to quantify all affects of development or refer to a specified standard. Similarly, the Case Officer is not required to agree with all comments raised by consultees. With justification, their view can depart from the advice provided. As such, it was not unreasonable for the Case Officer to find additional harm beyond that identified by the Principal Design Officer.
9. As set out within the Appeal Decision, I am satisfied that the reference on the Decision Notice to the 2021 version of the Framework is a typographical error and that the Council considered the latest version when determining the planning application. The Council acknowledged this error when highlighted and consequently has not acted unreasonably in this regard.
10. Within the Delegated Report the Council has considered the benefits of the proposal. The assessment is suitably comprehensive, given the scale of the proposal. The Council gave limited weight to the benefits. Whilst I disagree with this assessment, the Council's planning judgement within the Delegated Report is clear and not unreasonable. Notwithstanding this, the Council creates confusion in paragraph 19 of its Statement of Case where it assesses the benefit of the contribution of a single dwelling. I will afford the Council the benefit of the doubt in this instance, as in the same paragraph it considers the benefit of the addition of two dwellings to the housing stock.
11. The Council acknowledged within the Delegated Report that the presumption in favour of sustainable development may apply as it cannot demonstrate a five-year supply of deliverable housing land. However, the Council has not explicitly stated that the impacts of the proposal would significantly and demonstrably outweigh the benefits. It has indicated the weight it ascribes the benefits but does not specify the

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<sup>3</sup> Planning Practice Guidance, Appeals, Paragraph: 049 Reference ID: 16-049-20140306

weight it ascribes to the totality of the harm caused by the proposed development. Albeit the Council does indicate that the proposal would have a significant impact on the character of the area. Accordingly, it is not clear to me whether the Council has applied the balance specified in paragraph 11(d) of the Framework.

12. The PPG<sup>4</sup> advises that preventing development which should clearly be permitted, having regard to national policy, may give rise to an award of costs against a Council. In this instance, the Council has acknowledged national policy, but it is not clear whether it has correctly applied paragraph 11(d) of the Framework. However, for the reasons set out in the Appeal Decision, I do not conclude that the Council has prevented a development which should clearly be permitted. I therefore conclude that it has not acted unreasonably in this regard.
13. The Interim Position Statement for Housing Development is a material consideration. The Council acknowledged the Position Statement within its Statement of Case. For the reasons set out in the Appeal Decision, the appeal proposal would not strictly conform with the criteria specified within the Position Statement. Even if it did, this would not automatically outweigh the conflict with the development plan. Based on the Council's representations and my assessment of the proposal, I am satisfied that even if the Council had considered the Position Statement prior to determining the planning application it would have still dismissed the application.
14. Within the application for costs, the applicant seeks to explain why they consider the scheme to be acceptable. For clarity, these matters have been covered within the Appeal Decision and there is no merit to me readdressing these matters within the Costs Decision.
15. Overall, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*J Hobbs*

INSPECTOR

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<sup>4</sup> Planning Practice Guidance, Appeals, Paragraph: 049 Reference ID: 16-049-20140306