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## Costs Decision

Site visit made on 21 January 2026

by **A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2026

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### Costs application in relation to Appeal Ref: **APP/V2635/W/25/3372005**

#### **Holme Oak, Stoke Road, Wereham, Norfolk PE33 9AT**

- 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 G Gott for an award of costs against King's Lynn and West Norfolk Borough Council.
  - The appeal was against the refusal of the Council to grant planning permission for residential development involving the demolition of existing barn complex.
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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. The Applicant contends that they have incurred unnecessary costs in submitting the appeal, as the Council's reasons for refusal are unsubstantiated, and lack legitimate reasoning. Specifically, it is argued that the Council did not attribute sufficient weight to the applicant's fallback position.
4. In *Gambone v SSCLG*<sup>1</sup> a two-stage approach to fallback was set out. Firstly, a decision maker must determine whether the fallback position is a material consideration. If so, then as a second step, they must decide what weight to attach to it.
5. Regarding the first step; I see nothing to suggest that the Council failed to recognise the appellants fallback position, provided by an approval under Class Q of the General Permitted Development Order (2015), as a greater than theoretical possibility. The committee report recommended the planning application be approved despite a clear conflict with policy, because of the aforementioned fallback position. Indeed, the concept of fallback is explained in some detail, including a summary of pertinent caselaw. The applicant's specific fallback position is also set out, and the minutes show that the committee explored its implications.
6. Regarding the second step; the Council concluded that the conflict with policy was not outweighed by the fallback position. The minutes and reason for refusal are

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<sup>1</sup> [2014] EWHC 952 (Admin)

explicit in that respect. That is a decision the Council was entitled to come to. Indeed, I have come to the same conclusion in determining the appeal. I see little to suggest that this decision was without reason; the weight attributable to the spatial strategy policies alone may be considered sufficient to outweigh the fallback. In addition, the Council felt that approvals under Class Q were not evidently likely to be implemented; I have reached a similar conclusion myself.

7. An award of costs is not justified.

*A Knight*

INSPECTOR



## Appeal Decision

Site visit made on 21 January 2026

by **A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2026

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**Appeal Ref: APP/V2635/W/25/3372005**

**Holme Oak, Stoke Road, Wereham, Norfolk PE33 9AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr G Gott against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref is 25/00561/F.
  - The development proposed is residential development involving the demolition of existing barn complex.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for an award of costs against the Council is the subject of a separate decision.

### Preliminary Matters

3. I have used the site address from the application form in the banner heading above. I note that elsewhere the site is described as Barn at E568308 N301300.

### Main Issue

4. The main issue is whether the appeal site (the site) would be a suitable location for the proposed development having regard to the development plan.

### Reasons

5. The site comprises a barn and open ground around it, along with a point of access from the highway. The former elements are outside the development boundary for Wereham, which is defined in the King's Lynn and West Norfolk Local Plan 2021-2040 (2025) (the Local Plan) as a rural village in Tier 5 of the Settlement Hierarchy set out in Policy LP01.
6. It is proposed to replace the barn with a directly comparable building split into four dwellings. Local Plan Policy LP02 states that residential development outside of Tier 5 development boundaries will not normally be supported, except where the settlement has an identified housing requirement which there is no opportunity to meet within the boundary, and which is not addressed already through a Neighbourhood Plan allocation.
7. Appendix I to Local Plan Policy LP03 identifies the need for one additional dwelling in Wereham, and no pertinent Neighbourhood Plan exists. Even so, I have been

provided with very little to show me that there are no opportunities for that dwelling to be provided within the development boundary. As such, even if I were to accept that the appeal proposal satisfies the requirements of Parts 1 and 2 of Policy LP02, it nevertheless does not evidently have the support of that policy overall.

8. Given the above, the site would not be a suitable location for the proposed development having regard to the development plan.

### **Other Considerations**

9. Whilst I note the full planning history of the site, three earlier schemes are particularly relevant. An application for prior approval under Class Q of the General Permitted Development Order (2015) was approved in 2021<sup>1</sup> (the first approval). Another application made in 2025, also under Class Q, found that prior approval was not required<sup>2</sup> (the second approval). Both of these schemes involved the creation of four dwellings in the barn.
10. In between these two approvals, an application for planning permission for a scheme directly comparable to that before me was refused, and a subsequent appeal dismissed<sup>3</sup> (the previous appeal). Much as I have done, the Inspector in the previous appeal found that the site was an unsuitable location for the proposal, considering the development boundary. They attributed very little weight to the fallback position provided by the first approval, as it was unlikely those could have been completed before the deadline imposed by Class Q.
11. As a result of the second approval the conversion of the barn into four dwellings has, relatively recently, been found by the Council to comply with the requirements of Class Q. As such, there is a greater than theoretical possibility of the second approval scheme being built. I must therefore consider a similar fallback position to that presented to the previous Inspector, except that in this case the appellant has significantly more time to complete the works<sup>4</sup>.
12. That said, the Inspector in the previous appeal did not state that the existence of the first approval would, if not for the lack of time to complete it, have outweighed the identified conflict with policy. Indeed, I must decide what weight the current fallback position should carry in my determination, based on the facts before me. That includes the likelihood of the second approval being built, and how it compares to the appeal proposal.
13. There are such close similarities between the two approved schemes and those refused planning permission that the method of construction appears the only major point of distinction. Third parties have questioned whether converting the existing barn is structurally and financially feasible. The appellant has not responded on this point. Indeed, I have very little explanation as to why, after obtaining both the first and second approvals, the appellant subsequently sought planning permission to replace the barn rather than proceeding to convert it.
14. The appellant states that it was in light of the previous Inspectors comments that the second approval was sought. I note that once the second approval was obtained, it was then only some four months until the planning application subject

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<sup>1</sup> Application Ref 21/01872/PACU3.

<sup>2</sup> Application Ref 24/02033/PACU3.

<sup>3</sup> Appeal Ref APP/V2635/W/23/3334048.

<sup>4</sup> The operative date is 10 January 2028.

of this appeal. The above, along with the contention in the appellant's statement that "The situation now is that the current prior approval 25/00561/PACU3 which exists on site does not expire until late 2027. This allows for ample time for the works associated with 25/00561/PACU3 to be carried out. In accordance with appeal decision APP/V2635/W/23/3334048, the proposal can now be granted" does very little to suggest the second approval was obtained with the intention that the barn be converted.

15. Even in combination, the above observations do not demonstrate that converting the barn in line with the second approval is infeasible. They do nothing, however, to show me that it would be at all likely. Moreover, and most significantly in my view, the appellants statement does not contain any suggestion that the Class Q scheme will be built if this appeal fails, let alone evidence to that effect.
16. The last Inspector found that the previous appeal scheme would result in a more attractive and comprehensive development than the first approval, though they did not suggest that this was a significant benefit. I recognise that the current appeal proposal would provide better parking, garden, and landscaping arrangements than the second approval, but consider these to be very modest benefits due to the limited scale of their impact; On this point, I note the appellant describes the differences between the schemes as negligible. What is more, I have no reason to view the second approval scheme as unacceptable or harmful in these respects.
17. Overall, given the above I attach only modest weight to the fallback position provided by the second approval.
18. My attention has been drawn to two previous planning applications<sup>5</sup> in which new dwellings were approved in place of agricultural buildings. In both cases the Council cited a fallback position created by an earlier approval under Class Q when granting permission. I accept the Council's observations that the weight given to fallback will differ in each instance, and that each application should be considered on its merits. However, I have all but nothing before me to explain why the merits of those two approved schemes were found so different to those of the appeal proposal that the former were approved and the latter was not.
19. I note that in the earlier of the two cases the proposal was found to comprise a positive enhancement to the setting, given the utilitarian appearance of the barns being replaced. Whilst it is not clear that this was determinative, it is nevertheless a trait not evidently equally possessed by the appeal proposal, and one which may lead to a different planning balance overall.
20. There is little to suggest that the latter case involved a similar positive enhancement, or comparable benefit. Even so, it is not clear to me that the circumstances around that application were the same as those before me. Whilst the description of development stated that the agricultural building in question had been "deemed not suitable for conversion due to its poor quality and operational inefficiencies" I do not know whether the applicant had demonstrated, or at least stated, that they would nevertheless proceed with a conversion if the application failed, albeit at greater expense.
21. Overall, whilst I cannot be satisfied that the Council has been consistent in its approach, the limited evidence before me does not show the circumstances in the

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<sup>5</sup> Application Refs 21/02377/F and 22/01567/F.

cited previous approvals to be precisely the same as those in this appeal, which I have been able to identify with a far higher degree of precision. In any event, I must make my determination on the merits of the appeal scheme as I see them. I attach only limited weight to the cited decisions, therefore.

### **Planning Balance**

22. The proposal would meet the identified need for one new dwelling for Wereham. This weighs in favour of the proposal, though only to a limited extent given, as set out above, I have little reason to think a new dwelling could not be provided inside the development boundary.
23. More generally, the proposal would yield a net gain of four new dwellings towards the Government's aim of significantly boosting supply. It may be possible for the development to be built quickly. These benefits carry notable weight generally, though it is tempered in this instance by the modest scale of the scheme.
24. There would be temporary economic benefits associated with the construction phase. Thereafter, there would be ongoing local economic benefits relating to the occupation of the site, and local facilities would benefit from increased demand. Nevertheless, given the relatively modest scale of the proposal and the small number of new residents brought about, these benefits would be minor.
25. I have found the fallback position provided by the second approval to attract moderate weight in favour of the appeal, and the two cited previous decisions to attract limited weight.
26. Set against the above, the proposal conflicts directly with the spatial strategy in the Local Plan, which itself has been through a process of public consultation and adoption only recently. The National Planning Policy Framework states that in achieving sustainable development the planning system has three overarching objectives, and that they should be delivered through the preparation and implementation of plans. An up-to-date spatial strategy is a key component of this, and the conflict between the appeal proposal and the Local Plan is, therefore, significant. Overall, the benefits of the appeal scheme do not outweigh the conflict with policies identified above.

### **Conclusion**

27. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

*A Knight*

INSPECTOR