



# The Planning Inspectorate

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Your Ref: PA/2021/1330  
Our Ref: APP/Y2003/W/22/3297656

Clare Allcock  
North Lincolnshire Council  
Development Control  
Planning Dept  
P O Box 42, Church Square House  
Scunthorpe  
N Lincs  
DN15 6XQ

26 May 2022

Dear Mrs Allcock,

Town and Country Planning Act 1990  
Appeal by Jackson Philips Asset Solutions  
Site Address: Agricultural Barn (Next to the Stables Restaurant), HIGH STREET/  
SCOTTER ROAD, MESSINGHAM, NORTH LINCOLNSHIRE

I enclose a copy of correspondence from Jackson Philips Asset Solutions applying for an award of costs against you.

If you wish to respond, please do so separately from other submissions, within 7 days from the date of this letter.

Any response you make will be passed to Jackson Philips Asset Solutions for comment.

Yours sincerely,

**Sara Burke**  
Sara Burke

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

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## **STATEMENT OF COSTS ON BEHALF OF JACKSON PHILIPS**

### **LAND WEST OF HIGH STREET MESSINGHAM PA/2021/1330**

The Appellant seeks the full award of costs against North Lincolnshire Council because of the unreasonable grounds for refusal of this application. The planning committee refused this application against the council's committee report that recommended approval, which considered the application to be sustainable, and fully compliant with national and local planning policy.

The Planning Inspectorate has published detailed guidance on when award of costs against a local authority may be appropriate. Examples given include: -

- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations'.
- 'failure to produce evidence to substantiate each reason for refusal on appeal'.
- 'vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis'.

The appellant considers that all the above grounds of unreasonableness are relevant to this refusal.

The appellant asserts that the two reasons for refusal are unreasonable because: -

1. Firstly' the committee unnecessarily deferred and delayed the decision for refusal for a site visit to be made to consider the issues of drainage and highways matters, contrary to the planning advice of the planning authorities local flood lead officer and highways officer. The site visit was undertaken for reasons that contradict the councils' own rules for site visits. The committee did not subsequently justify its refusal on either of the stated reasons for the site visit.

This application is sustainable and conforms with national planning policy and the local development plans as stated by the council's planning department. The committee has therefore unreasonably prevented and delayed this development pending the determination of the appeal.

2. The reasons for refusal are vague and generalised. The assertions for refusal are also inaccurate about the proposal's impact and are unsupported by any objective analysis.

3. The reasons for refusal could have been dealt with by way of planning conditions to ensure the provision of 'sufficient amenity', and to overcome any 'unreasonable restrictions' that the committee considered would impact upon local businesses.

The Planning Committee refused the application on the following two reasons:

1. "The applicant failed to demonstrate that a sufficient level of amenity exists".

2. "There is a potential that local businesses may have unreasonable restrictions placed upon them because of the proposed development".

The council cite Paragraph 187 of the NPPF and North Lincolnshire development policies DS1, DS11 and CS5 to justify its reasons for refusal.

The first reason for refusal is vague and unclear. It fails to identify what 'amenity' the applicant failed to 'demonstrate exists,' or what this specific 'sufficient level' points to.

Neither the NPPF or the policies referred to, make provision, or support the refusal of applications based upon an unstated or undefined 'sufficient level of amenity'. Where reference is made to 'amenity' within policy, it is specific and clear, and the refusal should have clearly stated what amenity it refers to and how it is insufficient. The applicant is at a loss to understand what exactly the insufficient 'level of amenity' is, that the planning committee refer to? The committee report confirms that the appeal site is located in a sustainable settlement that contains a high level of local services and community uses, Furthermore, the appellant and council have agreed the s106 planning obligations to mitigate all the impacts of development.

The planning committee's refusal is based upon an undefined 'sufficient level of amenity' that is not supported or referenced by NPPF paragraph 187 or the any of the three development plan policies referenced to as a reasoned justification for the refusal. None refer to any general 'sufficient level of amenity' as a basis for the refusal of planning applications.

Whilst the applicant is uncertain as to what the insufficient 'level of amenity', this amenity could have been capable of being provided by way of planning condition or obligation. Both were available options open to the planning committee.

The second reason for refusal is also unreasonable. It states that there 'is potential that local businesses may have unreasonable restrictions placed upon them as a result of the proposed development'. This reason again is unclear, undefined, vague, and fails to offer any definite proof as to whether the application 'will' definitively create 'unreasonable restrictions' upon businesses as a consequence of the development.

The refusal also fails to identify or quantify how, and which businesses will be affected.

Only two businesses are located close to the appeal site. The first is the Wise Owls Nursery located adjacent to the site on Scotter Road. This business ceased trading in February 2022, prior to the determination of this application. However, the owner of the Nursery was granted residential planning consent for 7 dwellings (PA/2018/978) on land that encircled the Nursery on 8<sup>th</sup> June 2018 (Appendix 1). The applicant is therefore at a loss to understand how the development of housing located a distance away from this site, could adversely impact upon this business. Residential and nursery uses are considered to be generally compatible.

The only other business within proximity to the appeal site is the Stables Restaurant located at the entrance of the appeal site on Scotter Road. This property is owned by the applicant who excluded it from this residential application as the intention is to continue to operate these premises as a restaurant. The applicant therefore has no intention and no material interest of having any 'unreasonable restrictions' placed on a propriety within his ownership. The appellant has a vested interest in ensuring its continued viability. It is for this reason that the applicant did not include this property within the application site boundary.

The planning committee have failed to define or quantify the nature of the potentially 'unreasonable restrictions'. Had it done so the appellant contends that these should have been capable of being managed by way of planning condition.

The applicant contends that the reasons for refusal are spurious, unevicenced and not soundly based having regards to national or local planning policy or relevant other material considerations and seeks the full award of costs given that both reasons for refusal are unreasonable.

This document forms part of the appeal is submitted by

Philip Jackson On Behalf of: -

Jackson Philips Asset Solutions  
Mercury House,  
Foxby Lane Business Park,  
Willoughton Drive,  
Gainsborough,  
Lincolnshire,  
DN21