



Costs Decision

Site visit made on 21 May 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 2nd of June 2025

Costs application in relation to Appeal Ref: APP/U2615/W/24/3353693

Hall Farm Business Park, Martham Road, Rollesby NR29 5DR

- 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 Chris Tooke for a full award of costs against Great Yarmouth Borough Council.
 - The appeal was against the refusal against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission for a retrospective application for proposed retention of 4 units (6,6a,19 and 20) and the erection and/or completion of 3 no. new buildings (Units 9,10 and 11, 7 in total) on the submitted plan to be used as storage/workshop units and for office use.
-

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. As set out in my appeal decision, the matter that I had to determine was whether or not the details submitted by the applicant addressed the requirements of Condition 4. It is clear they did not for the reasons set out in the appeal decision. That does not appear to be disputed by the applicant who sets out in their appeal statement that “the LPA dismissed this design solely on the basis that it did not conform to their imposed condition, rather than assessing whether the design was appropriate for the setting.”
4. It seems clear to me that the applicant was aware that the design of the windows did not conform to Condition 4 but wanted to revisit the issue of whether the design was appropriate for the setting. However, the discharge of conditions process is not the time to revisit such matters.
5. Rather, as the decision whether to discharge a condition imposed on a consent is based solely on whether or not the details submitted address the requirements of a particular condition the Council have not acted unreasonably in not discharging Condition 4.
6. The applicant also highlights that the Council delayed registration of the application to discharge the relevant condition and this delay in the decision-making process led them to fit the windows that had already been ordered to avoid disrupting on-going works.

7. Any delay in the decision-making process should be avoided and, in some circumstances, this can justify an award of costs. However, that is not the case here. The Council imposed Condition 4 on the relevant planning permission on 5 April 2024. That condition was clear that no further works on site were to be undertaken until specified details were submitted to and agreed in writing by the Council. Only once that agreement was received in writing could development commence or re-commence.
8. Notwithstanding that there seems to be some disagreement about whether the windows had actually been pre-ordered and when they were fitted, based on the available evidence the applicant did not comply with the terms of the condition and fitted the windows in contravention of its clear terms. That is a decision that the applicant decided to take and any loss that flows from that decision cannot reasonably be held to be the Council's responsibility.
9. Rather, it is a consequence of the applicant's own actions, particularly given that the details submitted by the applicant so clearly failed to address the requirements of Condition 4. Consequently, to my mind it was inevitable that the Council were not going to discharge the condition and that should have been a reasonably foreseeable eventuality when the applicant decided to proceed with the development in contravention of Condition 4.
10. Moreover, given that the applicant has not accepted the Council's decision to not discharge Condition 4, an appeal was bound to follow and therefore even if the Council had acted in a more timely manner, I am not persuaded that an appeal could have been avoided.
11. In any event, the delay in the decision-making process was not so severe as to justify an award in costs. The applicant indicates that there was a lack of communication. Although the decision took about three months from start to finish, there was some on-going engagement between the Council and the applicant during this time and prior to the formal decision being issued. The Council made some reasonable suggestions and recommendations including providing a link to the type of casement window that would meet the requirements of Condition 4 and asked the applicant's agent to amend the details and provide the information required.
12. However, in response the applicant's agent indicated that the windows had now been ordered and highlighting that if the Council failed to discharge the condition, they would appeal that decision and claim costs. To my mind, given the inadequacy of the details provided by the applicant, it was the Council who were acting in an entirely reasonable manner and attempting to find a solution that would allow the discharge of Condition 4. Certainly, their behaviour falls significantly short of meeting the threshold to be considered the type of unreasonable behaviour that would justify an award of costs.
13. The applicant also indicates that the condition imposed was not part of the agreement on conditions during initial discussions. However, even if that is the case that does not justify an award of costs. The condition was imposed. A separate appeal decision¹ has concluded that Condition 4 was reasonable and necessary. As a result, I am unable to find that the Council's decision to impose the

¹ APP/U2615/W/24/3347097

condition is unreasonable even if it had not been mentioned during initial discussions.

14. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR