
Costs Decision

Site visit made on 28 May 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 July 2025

Costs application in relation to Appeal Ref: APP/E2001/W/25/3359600 Builders Yard North of The Gables, Main Street, Asselby, East Riding of Yorkshire DN14 7HB

- 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 B Dimmack of Dimmack Bros Ltd for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for development.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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. Unreasonable behaviour on the part of a Local Planning Authority may include, preventing or delaying development which should clearly have been permitted. PPG indicates that an application for costs should relate to costs incurred by the receiving party during the process by which the Inspector's decision is reached. Although the appellant puts forward that the unnecessary expense relates to having to re-apply for permission, this does not relate to costs incurred during the appeal process.
3. The appellant contends that the Council has behaved unreasonably in refusing the application as the ecology issue in question is minor in scale and could have been approved subject to conditions or kept in abeyance pending further information.
4. The Council responds that it requested additional information to enable the Council's Nature Conservation Officer to review the impacts of the proposal, but this did not materialise. The Council contend that established guidance and case law is clear that the information was required to be submitted to the Local Planning Authority prior to a decision being made.
5. I have found in my appeal decision that the Preliminary Ecology Report was undertaken outside of the optimum survey period. Moreover, it concluded that further surveys were required. Accordingly, I cannot be satisfied that there would be no harm to European Protected Species (bats) as a result of the proposed development. Circular 06/2005 states that it is essential that the presence or absence of protected species, and the extent to which they may be affected by a proposed development, is established before planning permission is granted. The

Council provided the appellant with the opportunity to submit additional information during the determination of the application, but this was not forthcoming.

6. As a result, I cannot agree that the Council has acted unreasonably in this case.

Conclusion

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Skelly

INSPECTOR