
Costs Decision

Site visit made on 27 August 2025

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2025

Costs application in relation to Appeal Ref: APP/B2002/W/25/3365414

22 The Curve, Welholme Avenue, Grimsby DN32 0HP

- 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 Laurence Hamilton for a full award of costs against North East Lincolnshire Council.
 - The appeal was against the refusal of planning permission for a detached outbuilding.
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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 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. Given the proximity in which the building has been sited to trees in a Conservation Area and given that the trees, by even a basic visual assessment, can be seen to make a positive visual contribution, it cannot be surprising that the impact on trees was identified as a key material consideration in the determination of the application. Whilst the respondent did not require an Arboricultural Report (AR) in order to validate the application, it became apparent following the receipt of the comments of the Tree Officer (TO) that the submission of a report would be necessary to assess the impacts of the development. The comments of the TO are sufficiently comprehensive and I do not concur with the suggestion of the applicant that there was an onus on the TO to in effect undertake an AR themselves. That the building has been in place for over two years without obvious impact on the trees does not alone mean there would not be long term harm.
4. It would appear that the applicant made a submission which is entitled Arboricultural Assessment (AA) in response to the concerns of the TO. However, that does not appear to follow the industry accepted process for such an assessment or to have been carried out by someone who is professionally qualified in arboricultural matters. That the applicant considered it necessary to submit a new AR carried out by a tree specialist with the appeal suggests a clear concern that a reliance solely on their AA would not lead to the appeal being successful. All of this means that the respondent did not act unreasonably in refusing planning permission on the basis of the information that was available to them. I also do not consider that the respondent acted unreasonably because they did not request a report at validation stage, and they gave the applicant the opportunity to provide the

information that they required before they made their decision, thus showing a reasonable level of cooperation.

5. The applicant does not expand on how the concerns of the respondent could have been addressed by conditions, but if harm had been caused to the trees, then there would have been limited scope to address this because the building is in situ. Other appeal decisions relating to works near to trees have been provided by the applicant but, on the basis of events set out above, none of these submissions support the proposition that the respondent acted unreasonably in the determination of this particular planning application. There is a further matter raised by the applicant in terms of whether the appeal building could have been constructed under permitted development rights. However, the respondent's Delegated Report sets out their counter view that planning permission is required. Neither a planning application nor an appeal under Section 78 of the Town & Country Planning Act 1990 (as amended) is the correct forum to determine that matter, and the applicant could have applied under Section 191 of the same act. I find there to be no unreasonable behaviour on any of these grounds, either.
6. The applicant's costs final comments go beyond solely rebutting the comments made by the respondent and introduce several new matters for consideration. I am conscious that the respondent has therefore not had the opportunity to comment on these. But, in any event, to my mind none of those additional matters overcome the basic premise that it was the applicant who chose to submit an AA instead of an AR and none support the applicant's overall position that the respondent acted unreasonably in their determination of the planning application.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Graham Wraight

INSPECTOR