



Costs Decision

Site visit made on 4 November 2025

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Costs application in relation to Appeal Ref: APP/F4410/X/25/3362756

6 Shires Close, Sprotbrough, Doncaster DN5 7RG

- The application is made under the Town and Country Planning Act 1990 ("the 1990 Act"), sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by the City of Doncaster Council for a full award of costs against Mr David Walton.
 - The appeal was against the refusal to grant a certificate of lawful use or development ("LDC") for the "installation of air source heat pump".
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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.

Submission by Applicant

3. The applicant asserts that the respondent submitted an appeal that had no reasonable prospect of succeeding. They state that the appeal followed a recent appeal decision in respect of the same development, on the same site where an Inspector decided that the development did not meet the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO"). There had been no material changes in the development, the circumstances of the site, or the legislation relating to the development that would give rise to an alternative outcome.
4. The applicant states that the respondent's appeal evidence suggests they accept that the development is attached to the wall of the dwelling, which they have previously contested. Furthermore, the respondent entered a guilty plea at the recent prosecution proceedings the applicant brought against the respondent regarding non-compliance with the enforcement notice ("EN"). The applicant asserts that these matters are further justification that the appeal had no reasonable prospect of succeeding.

Response by Respondent

5. The respondent replied to the applicant's evidence stating that an award of costs against them seems inappropriate in this instance; that it is a relatively simple case; and they have already paid over £1,000 in planning fees.

6. The respondent asserts that their guilty plea was to limit their exposure to financial risk as the costs of defending the case were potentially unsustainable. Furthermore, they were advised that the judge would likely decide the respondent was guilty of not complying with the EN simply because the air source heat pump ("ASHP") had not been removed, without considering the technical arguments put forward in the appeal.

Assessment

7. The respondent and another appealed¹ against the EN for the existing ASHP, and the previous Inspector found that it did not comprise permitted development under the GPDO. The appeals were dismissed, the EN was upheld, and deemed planning permission was refused. The respondent, if aggrieved by the Inspector's decision, could have challenged the decision in the High Court but did not do so.
8. A subsequent LDC application² for the ASHP was refused by the Council due to the EN being in force and therefore it did not satisfy s191(2) of the 1990 Act. The EN was still in force at the time the applicant submitted a second LDC³ for the ASHP. As such, there had been no change in circumstance that would have resulted in the LDC being approved.
9. The respondent appealed the Council's decision against the second LDC. On receipt of the appeal, the Planning Inspectorate advised the respondent that as there was an EN in force on the appeal site which related to the same development as the appeal, the EN prevented the grant of an LDC and therefore the appeal would be dismissed. Consequently, there was no reasonable prospect of the appeal succeeding. The applicant was also advised that if they proceeded with the appeal, they were at risk of an award of costs being made against them, as pursuing an appeal where an LDC cannot be granted could be seen as unreasonable behaviour.
10. The respondent replied to the Planning Inspectorate stating they were aware that an LDC could not be granted under s191(2) of the 1990 Act. Despite this, they requested the appeal be considered under s191(4) of the 1990 Act (which I have subsequently determined is not of relevance to the appeal). As such, they decided to proceed with the appeal even though they had been advised there was no reasonable prospect of it succeeding. Following consideration of the application on its merits alone, I have concurred with the applicant and dismissed the appeal under s191(2) of the 1990 Act.
11. Taking all these factors together, in my opinion, they amount to unreasonable behaviour by the respondent.
12. Had the respondent adhered to the Planning Inspectorate's advice and not pursued the appeal, the applicant would not have incurred unnecessary or wasted expense in the appeal process.
13. I appreciate the respondent has incurred expense in the payment of planning fees, and I acknowledge their reasons for pleading guilty during Court proceedings against non-compliance with the EN. However, these matters do not alter my view that the respondent proceeded with an appeal that had no reasonable prospect of

¹ Appeal Ref APP/F4410/C/21/3287668 and APP/F4410/C/21/3287669

² Planning Ref 23/01091/CPE

³ Planning Ref 24/02108/CPE

succeeding which amounted to unreasonable behaviour that resulted in unnecessary or wasted expense.

Conclusion

14. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the 1990 Act, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr David Walton shall pay to the City of Doncaster Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
16. The applicant is now invited to submit to Mr David Walton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Berry

INSPECTOR