



Costs Decision

Site visit made on 6 May 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 20 May 2026

Costs application in relation to Appeal Ref: APP/P3040/X/24/3357481

22 Costock Road, East Leake, Nottinghamshire LE12 6LY

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Lawless for a full award of costs against Rushcliffe Borough Council.
 - The appeal was against the [refusal of] [part refusal of] [failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for a garage].
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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 (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. The applicant is seeking a full award of costs for substantive reasons and contends that the local planning authority (LPA) acted unreasonably in refusing to grant a Certificate of Lawful Use or Development (LDC) when significant contrary evidence has been provided, including several planning applications and an LDC for the residential garden use of the land. Furthermore, it is his case that a previous Inspector when considering an appeal in relation to a two-storey extension on the land, had confirmed that the proposal could be considered as a householder application¹. It is the applicant's view that as the previous Inspector had confirmed that the two-storey extension was in fact a householder application, it must therefore be part of the residential curtilage to No 22 Costock Road. It was therefore unreasonable of the LPA to refuse the LDC for the garage on the same land on the basis that they did not consider that land to fall within the curtilage of No 22.
4. In terms of a substantive award of costs, a LPA may be at risk of an award of costs where they prevent or delay development that clearly should have been permitted having regard, amongst other things, to national policy; acting contrary to, or not following well-established case law; failure to produce evidence to substantiate their case; persisting in objections to a scheme, or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable².

¹ APP/P3040/W/23/3332638

² PPG:049 Reference ID:16-0489-20140306.

5. The LPA supported their decision to refuse an LDC with a statement of case which included a detailed planning history of the site, referred to established case law, and set out clearly why they did not consider that the land was within the curtilage of No. 22. Those reasons clearly addressed the previous Inspector's decision and why they did not consider that decision to be a reason for finding the land to be curtilage.
6. It can be seen from my decision that I did not agree with the Council's reasons for refusing to grant an LDC. However, the previous Inspector's decision did not make a finding that the land was "curtilage", only that the application he was considering could be a Householder Application. Having regard to the Town and Country Planning (Development Management Procedure) (England) Order 2015, which contains a definition of a householder application to include an application for planning permission for development for an existing dwellinghouse, it is clear that the two-storey side extension to a dwelling would be classed as a householder application. That definition does not, however, confirm the extent of a property's curtilage.
7. As set out in my decision, whether something falls within a "curtilage" is a question of fact and degree, and thus, primarily a matter of judgement. In this case I am satisfied that the LPA adequately substantiated its reasons for not issuing an LDC and the appeal could not have been avoided.
8. I therefore conclude unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elizabeth Pleasant

INSPECTOR