

DEVELOPMENT MANAGEMENT

APPEALS LIST - 19TH SEPTEMBER 2025

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0431/24/FUL 10-30 Robinson Street East Grimsby North East Lincolnshire DN32 9AE	AP/001/25 INPROG	Becca Soulsby Written Representation
DM/0245/24/FUL 166 Weelsby Road Grimsby North East Lincolnshire DN32 8PJ	AP/003/25 INPROG	Bethany Loring Written Representation
DM/0568/23/OUT Land To The South Of Church Lane Humberston	AP/004/25 INPROG	Richard Limmer Written Representation
DM/0740/24/CEU 167 Hainton Avenue Grimsby North East Lincolnshire DN32 9LF	AP/006/25 INPROG	Bethany Loring Written Representation
DM/0097/25/FUL 124 Humberston Fitties Humberston North East Lincolnshire DN36 4EZ	AP/010/25 INPROG	Bethany Loring Written Representation

DM/0208/25/FUL 160 Humberston Fitties Humberston North East Lincolnshire DN36 4HE	AP/012/25 INPROG	Emily Davidson Fast Track
DM/0294/25/ADV Petrol Filling Station 196 Waltham Road Grimsby North East Lincolnshire DN33 2PZ	AP/013/25 INPROG	Becca Soulsby Written Representation
DM/1061/24/FUL 12 Thornton Court New Waltham North East Lincolnshire DN36 4LS	AP/014/25 INPROG	Becca Soulsby Fast Track



Appeal 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: 5 September 2025

Appeal Ref: APP/B2002/W/25/3366279

287 Wellington Street, Grimsby DN32 7JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Sanjeeth Manotheesan against the decision of North East Lincolnshire Council.
 - The application Ref is DM/0781/24/FUL.
 - The development proposed is the premises are currently being used as a retail unit (other than hot food). It is proposed to use the premises as a fried chicken shop with a table or two for customers to sit; for the sale of hot food for consumption on and off the premises.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) Whether the proposal would be suitably located having regard to relevant development plan and national planning policies concerning the location of hot food takeaways; and
 - (ii) The effect of the proposal on the living conditions of nearby occupiers.

Reasons

Location

3. Part 5C of Policy 23 of the North East Lincolnshire Local Plan 2018 (LP) requires that proposals for hot food takeaways demonstrate that account has been taken of the relationship with any school located within 400m of the proposed use. The National Planning Policy Framework (the Framework) states at paragraph 97 that local planning authorities should refuse applications for hot food takeaways and fast food outlets within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre.
4. In this instance, there is secondary school provision within 400m of the appeal site and the appeal site does not fall within a designated town centre. There is also a park and youth centre nearby. Whilst it is proposed that there would be one or two tables for customers to sit, the description includes reference to hot food for consumption off the premises, and it is likely that a considerable portion of sales would be the takeaway of hot food.

5. The appellant considers that no potential harm to children from the appeal proposal has been demonstrated. However, the harm arises on health grounds in respect of the type of food usually sold by hot food takeaways and the proximity of the appeal site to the school and other spaces that young people frequent. In their reference to limiting the number of pupils allowed on the premises at any given time the appellant tacitly accepts that the proposal would be used by children. The link between what is described as being a fried chicken shop and unhealthy eating habits in children is self-apparent.
6. The submission does not therefore show that the relationship with the nearest school would be acceptable for the purposes of Policy 23 of the LP. Furthermore, the Framework provides a clear steer that hot food takeaways within walking distances of schools and other places where children and young people congregate should be resisted. This applies in the case of the appeal proposal. The proposal therefore fails to accord with both Policy 23 Part 5B of the LP and with the aims of the Framework in terms of promoting healthy communities.

Living conditions

7. The appeal site is located at the end of the row of terraced properties, on a crossroads and on the corner of two roads. Directly opposite is a convenience store that displays opening hours that extend late into the evening and diagonally opposite is an existing hot food takeaway. Although only a snapshot in time, from what I observed at my site visit it would appear that there is frequent traffic movement along Wellington Street and adjoining roads
8. The appellant advises that they would be agreeable to the suggested amended opening times put forward by the Council, which would see the proposal open no later than 11pm. There is no substantive evidence provided that the proposed use would give rise to an increase in crime, anti-social behaviour or litter.
9. Given the existing surrounding uses, the mixed character of this particular part of Wellington Street and existing traffic movements, on the basis of the closing time referred to above I am satisfied that there would be no conflict with the aims of Policies 5 and 23 Part 5A of the LP, where collectively they seek to protect living conditions.

Other Matters

10. The proposal would bring an existing commercial unit back into use, making efficient use of land and bringing economic benefits. The appeal property is close to residential properties, which means that many customers would be able to visit by means other than by vehicle. However, these benefits do not justify the harm resulting from the location of the proposed use.

Conclusion

11. Whilst I have not found harm to living conditions, I have found that harm would arise due to the location of the proposed use and consequently that the proposal would fail to accord with the development plan and with national planning policy. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR

Appeal 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

Appeal Ref: APP/B2002/W/25/3365414

22 The Curve, Welholme Avenue, Grimsby DN32 0HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Laurence Hamilton against the decision of North East Lincolnshire Council.
 - The application Ref is DM/0943/23/FUL.
 - The development proposed is a detached outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a detached outbuilding at 22 The Curve, Welholme Avenue, Grimsby DN32 0HP in accordance with the terms of the application, Ref DM/0943/23/FUL, and the plans submitted with it.

Applications for costs

2. An application for costs was made by Mr Laurence Hamilton against North East Lincolnshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have not included the full description of development from the planning application form as it makes reference to the development being the retention of the building and that is not in itself development. However, I was able to see on my site visit that the appeal building has been erected and therefore I have determined this appeal on the basis that it is a retrospective proposal.
4. An Arboricultural Report (AR) has been submitted with the appeal, to attempt to address the reason for refusal set out on the decision notice. No amendments are proposed to the development itself, and the submission of the AR does not represent a fundamental change to the application that was made. The Council have had the opportunity to comment on this report during the appeal process. Interested persons have had the same opportunity, and I note that the only representation received in response to the planning application consultation raised visual concerns and not impacts upon the trees. In light of these considerations, I am satisfied that my acceptance of the AR would not cause procedural unfairness to any party who has an interest in the appeal.
5. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Wellow Conservation Area (CA).

Main Issue

6. The main issue is the effect of the development on trees.

Reasons

7. By virtue of being located in a CA, the trees are protected from works being undertaken to them without notification first being served on the Council. This provides a period of consideration as to whether the trees should be formally protected by a tree preservation order (TPO). The Council has clear concerns as to the adverse impact on the trees although they have not moved to place any formal TPO protection upon them. Nonetheless, the trees are mature specimens which are prominent within the street scene. As a result, they collectively contribute positively to the character and appearance of the CA and to that of the street scene, and their loss would be detrimental to both.
8. The appeal building is said by the appellant to have been constructed without excavation or trenching. This is collaborated by the AR submitted with the appeal, and from the visual inspection that was possible at my site visit there is nothing to suggest that this is not the case. The AR finds that this method of construction has successfully mitigated against what are deemed to be minor encroachments into the Root Protection Areas of four trees. The report further observes that the building has been in place for a duration exceeding two years and that there has been no discernible negative impact on the surrounding trees. I am satisfied on the basis of the available evidence that there has been no harm to the trees as a result of the appeal development.
9. The further concern raised in the reason for refusal is that the proximity of the development to the trees is likely to result in pressure to carry out excessive work to cut them back or even to remove them. However, whilst the crowns of two trees overhang the building there is a clearance between the lowest branches and the roof of the building which the AR deems to be adequate. The AR notes that the crown spreads of the two trees will be unlikely to significantly increase, that they will predominantly grow up and out, rather than down, and that as such there is little potential for the crowns to come into contact or close to contact with the building in future. The trees are also found to be in good condition and unlikely to drop significant branches onto the building.
10. The building does not provide habitable residential floorspace. Therefore, I do not consider it likely that a persuasive case could be made that works to any of the trees, or their removal, should be undertaken to reduce any shading effects that are caused on the building. The dropping of small branches, leaves, flowers and fruits will mean that the roof and gutters of the building will require regular maintenance, but not in a way that would be more onerous or more regular than would be expected to be encountered at any development that takes place near to trees. Furthermore, given that the building has a shallow mono-pitched roof and is single storey in height, there do not appear to be any great impediments to such regular maintenance taking place.
11. For these reasons I conclude that the development has not caused harm to the trees adjacent to it and that its retention will not lead to pressure to carry out excessive works to the trees or to remove them. In that respect the development has also therefore preserved the character and appearance of the CA. Consequently, the development accords with Policies 5, 22, 39 and 42 of the North

East Lincolnshire Local Plan 2018 where taken together they seek to protect natural assets and to conserve the historic environment.

Other Matters

12. The significance of the CA lies in historical and architectural terms as a high-quality Victorian expansion of the town of Grimsby. The wider site on which the appeal development is located contributes positively to this significance, albeit it has recently undergone substantial redevelopment in the form of additional modern housing development.
13. Although there is considerable screening provided by perimeter fencing along the frontage of the appeal site and also by the aforementioned trees, the appeal building is clearly visible in the street scene. It is likely that it will be more visible than at the time of my site visit during those months when deciduous trees are not in leaf. However, it is a building of limited scale and massing, is set back from the road frontage and its external facing materials are consistent with those of the boundary fencing, whose backdrop it appears in. Whilst I acknowledge the comments of the Heritage Officer, in my view the building has not for those reasons caused harm to the character or appearance of the CA or to its significance, or to the character and appearance of the surrounding area in general.
14. Claremont House is referred to as being a non-designated heritage asset. However, the small-scale appeal development is well separated from that building, whose visual setting at least has already been substantially changed by the recent larger residential development that has taken place immediately next to it. I am therefore satisfied that there has been no harm to the significance of this building as a result of the appeal development.

Conditions

15. The Council does not suggest that any conditions should be imposed. Given that it is a retrospective proposal, that matters relating to the trees have been addressed and that future maintenance requirements would not be onerous, I do not consider it necessary to impose any conditions. Whilst I note that the appellant suggests that further works could be carried out such as signage and log-roll edging, I do not consider that these works are needed to make the development acceptable in planning terms. Therefore, I do not make them subject to planning conditions.
16. Reference is made by the appellant to the installation of a water butt, but there is no evidence to suggest that the current drainage solution whereas water is directed from what is a very small roof area onto a sizeable landscaped area is unsatisfactory. Therefore, whilst the appellant may wish to install the water butt as they suggest, it too is not needed to make the development acceptable in planning terms and accordingly is also not the subject of a planning condition.

Conclusion

17. For the reasons given above, the appeal should be allowed

Graham Wraight

INSPECTOR

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



Costs Decision

Hearing held on 3 June 2025

Site visits made on 3 and 4 June 2025

by **O S Woodward MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 September 2025

Costs application in relation to Appeal Ref: APP/B2002/W/25/3360989

Land off Louth Road, New Waltham, North East Lincolnshire DN36 4RY

- 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 Cyden Homes Ltd for a full award of costs against North East Lincolnshire Council.
 - The appeal was against the refusal of planning permission to erect 249 dwellings with associated garages, open space, landscaping, drainage, emergency access and associated infrastructure with new access from Louth Road.
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Decision

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

The submissions for Cyden Homes

2. The costs application was submitted in writing on 19 February 2025. The following additional points were made orally. Confirmation that a full award of costs is pursued. There are two reasons for refusal both for technical reasons and made against the recommendation of the Head of Planning with no evidence provided to support the technical reasons. Our evidence was substantial at application and appeal stage. The only evidence provided by the Council is local opinion and evidence, neither of which have been good enough to substantiate the technical considerations. The Council has also relied on the appellant's own body of evidence on technical grounds. This unreasonable behaviour has resulted in wasted expense.

The response by North East Lincolnshire Council

3. The response was made in writing on 2 April 2025. The following additional points were made orally. The planning committee is entitled to come to a different decision to the recommendation of the officer's – it is a democratic process. The reason for refusal was a matter of judgment. It does not require substantive evidence, rather a view and a decision that is reasonable. The reason for refusal is very specific. Having regard to the appellant's own evidence is a sensible consideration, and it is our interpretation of what it shows that we have taken to the Hearing. The decision on the appeal does not necessarily relate to costs, which relate to unreasonable behaviour rather than decision making.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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

Highway safety

5. The proposal would result in the worsening of traffic congestion on the A16. The northern arm of the Toll Bar roundabout is already at capacity. The development traffic would tip the capacity of that arm of the roundabout from 99.9% to over 100%, at 107.2%. This also involves considerations regarding school children, who are particularly vulnerable road and footway users, using the Toucan crossing that is partly responsible for the capacity at that arm of the roundabout. The alternative route considerations regarding Scartho Road includes a roundabout at the A16 and Low Farm where one arm would be above the target threshold capacity of 85%.
6. The Council is entitled to use the data and evidence provided by the appellant but to draw different conclusions. This is particularly the case where there are acknowledged capacity issues which the proposed development would worsen. As can be seen from my Decision, I have found that the proposed development would have an acceptable effect on highway safety and the efficient operation of the highway network. However, it was a reasonable position of the Council to take to challenge this position. Its case was clear, concise, and did not stray further than reasonable arguments based on the evidence at the hearing and the 'on the ground' operation of the road network. I do not, therefore, view its behaviour as being unreasonable in this respect.

Air quality

7. The appellant's Air Quality Assessment 2024 (the AQA) was the only technical document in front of the hearing. No alternative empirical evidence was provided by the Council. Nor did it seek to challenge the results of the AQA. The AQA finds that air quality in the surrounding area and on the appeal site is comfortably within the targets set out at Schedule 2 of The Air Quality Standards Regulations 2010. It also confirms that the proposal would have a negligible effect on air quality, including on children and teachers at the school.
8. Given the significant headroom to the air quality standards levels and the agreed negligible effect of the proposal, the scenarios advanced by the Council, such as use of the Toucan crossing coinciding with some of the greatest increases in traffic, would not plausibly result in unacceptable levels of air pollution. Future targets are set out in The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023. However, the proposal would have a negligible effect on the PM2.5 pollution levels that would only marginally breach these regulations. The Government has not yet set out how proposals are meant to respond to the new regulations. The Council did not, therefore, sufficiently substantiate its concerns with regard to air quality. This constituted unreasonable behaviour.

Wasted expense

9. The effect of the proposal on air quality was part of the reason for refusal. This was actively defended by the Council throughout the appeal process. The unreasonable behaviour of the Council in this respect therefore resulted in wasted expense by the

appellant in seeking to defend this element of the reason for refusal throughout the appeal and hearing process.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North East Lincolnshire Council shall pay to Cyden Homes Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurrent in dealing with air quality; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to North East Lincolnshire Council, to whom a copy of this Decision has been sent, details of those costs with a view to reaching agreement as to the amount.

O S Woodward
INSPECTOR