

This meeting will be recorded and published on the website

AGENDA

**Development Management Committee
Wednesday 14 December 2011 at 6.30 pm
The Council Chamber, Guildhall, Gainsborough**

Members: Councillor Chris Underwood-Frost (Chairman)
Councillor Stuart Curtis (Vice-Chairman)

Councillors Owen Bierley, Alan Caine, David Cotton, Richard Doran,
Ian Fleetwood, Malcolm Leaning, Jessie Milne, Roger Patterson, Judy
Rainsforth

1. Apologies for absence.
2. Public Participation Period. Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. Minutes.
Meeting of Planning Committee held on 16 November 2011, previously circulated
4. Members' Declarations of Interest.

Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.
5. Update on Government/Local Changes in Planning Policy

6. Planning Applications for Determination
(summary attached at Appendix A to this agenda)
Print herewith DM.20 11/12

PAPER A

7. To note the following determination of appeals:

- i) Appeals against enforcement notices:-

A) by Mr I Rushby against an enforcement notice issued by West Lindsey District Council to remove shipping containers from the site and remove the embankments,

B) by Mrs E Rushby against an enforcement notice on the same grounds as A)

C) by Ms R Robinson against an enforcement notice on the same grounds as A)

on at land at Clump Hill Farm, Torrington Road Hainton.

D) by Mr I Rushby against an enforcement notice to retain works undertaken in relation to the construction of a conservation pond and the location of shipping containers at The Haven, Wood Langham, Legsby.

Appeals A, B and C Dismissed and enforcement notices upheld, appeal D allowed in part and dismissed in part – see copy letter attached as Appendix Bi

- ii) Appeal by Mr & Mrs C Miller against the decision of West Lindsey District Council to refuse to grant planning permission for erection of 2 bed dwelling on land at rear of William St and 17-23 High St, Saxilby.

Appeal Allowed – see copy letter attached as Appendix Bii

Officer's original recommendation to refuse permission.

- iii) Appeal by Miss J Laming for an award of costs against West Lindsey District Council's refusal to grant planning permission for a first floor extension, at 39 Crapple Lane, Scotton .

Appeal Dismissed – see copy letter attached as Appendix Biii

Officer's original recommendation to refuse permission.

M Gill
Chief Executive
The Guildhall
Gainsborough
6 December 2011

1. **127112** - Planning application for development of a 220 berth marina with access to the moorings from the river Witham and marina building incorporating a chandlery, workshop, cafe and customer facilities. Also, 40no. 2 bedroom holiday lodges, 24no. bedroom hotel with attached restaurant-bar, landscaping and open space improvements and improved access from Fiskerton Road East incorporating a right turn ghost island.

Location: Fiskerton Road Cherry Willingham

Recommendation: That the decision to grant permission subject to the conditions detailed in this report be delegated to the Planning & Development Services Manager subject to the completion and signing of the section 106 agreement.

2. **127585** - Planning application for construction of water treatment works, pumping station and open resevoir.

LOCATION: Land to south of Newton on Trent

RECOMMENDED DECISION: Grant permission subject to conditions.

3. **127850** - Planning Application for change of use from A1 - shop and post office - to residential use

LOCATION: 2 Orchard Close Scothern Lincoln, Lincolnshire LN2 2XB

RECOMMENDED DECISION: Grant, subject to conditions.



Appeal Decisions

Site visit made on 1 November 2011

by John Murray LLB, Dip.Plan.Env, DMS, Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2011

Appeal A: APP/N2535/C/11/2154477

Land at Clump Hill Farm, Torrington Road, Hainton, Lincoln, LN8 6LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ian Rushby against an enforcement notice issued by West Lindsey District Council.
- The Council's reference is 154106.
- The notice was issued on 11 May 2011.
- The breach of planning control as alleged in the notice is without planning permission, engineering operations to form embankments and the siting of four shipping containers.
- The requirements of the notice are: (1) remove the shipping containers from the site; and (2) remove the embankments by spreading the soil evenly over the site.
- The period for compliance with the requirements is 1 month in respect of requirement (1) and 3 months in respect of requirement (2).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld¹.

Appeal B: APP/N2535/C/11/2154478

Land at Clump Hill Farm, Torrington Road, Hainton, Lincoln, LN8 6LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Elizabeth Jane Rushby against an enforcement notice issued by West Lindsey District Council.
- The notice appealed against is the same as per appeal A.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal C: APP/N2535/C/11/2154479

Land at Clump Hill Farm, Torrington Road, Hainton, Lincoln, LN8 6LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Rosemary Robinson against an enforcement notice issued by West Lindsey District Council.
- The notice appealed against is the same as per appeal A.

¹ See however the decision on Appeal D below.

- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal D: APP/N2535/A/11/2154420

The Haven, Wood Langham, Legsby, Lincolnshire, LN8

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Ian Rushby against the decision of West Lindsey District Council.
- The application Ref 126512, dated 7 January 2011, was refused by notice dated 8 April 2011.
- In the application, the description of the proposed development is "to retain works undertaken in relation to (a) the construction of a conservation pond and wildlife habitat and embankment works; and (b) the permanent location of 2 shipping containers for storage; the permanent location of 2 shipping containers for an animal shelter and feed/bedding store respectively."

Summary of Decision: The appeal is allowed in part and is dismissed in part, as set out below in the Formal Decision.

Procedural matters

1. Notwithstanding the differences in the verbal description of the site location, it is clear from the plans that all of the appeals concern the same site.
2. On the photocopy of the planning application which I have seen, the date of submission is obscured. The Council's decision notice indicates that the application was dated 7 January 2011, but this may well be when it was registered, rather than when it was submitted. For the purpose of identifying the application, I note that the agricultural holdings certificate was dated 4 December 2010.
3. Whilst the planning application described the development as the retention of works, retention is not an act of development, as defined in section 55 of the 1990 Act and those words can be omitted. The appeal simply relates to a retrospective application to carry out the works described.

Appeal D

Main Issue

4. The main issue is the effect of the development on the character and appearance of the countryside, having regard to any benefits in terms of enhancing and preserving biodiversity.

Reasons

5. The appellant's evidence that the development has had a positive environmental impact through a significant increase in plant and insect life is supported by the opinion of a plant eco-physiologist and mycologist and the Lincolnshire Wildlife Trust is in favour of the scheme. The Council does not

contest that evidence and indeed accepts that the development brings benefits in the form of wildlife habitat creation and that the principle of conserving and enhancing biodiversity has strong policy support. In particular, one of the key principles of Planning Policy Statement (PPS) 9 (Biodiversity and Geological Conservation) is that development proposals where the principal objective is to conserve or enhance biodiversity and geological conservation interests should be permitted. Although the Government intends to revoke Regional Strategies, the East Midlands Regional Plan, (EMRP), adopted March 2009, is still part of the development plan. I have not been provided with a copy, but I am told that Policy 29 of the EMRP establishes priorities for enhancing the region's biodiversity. Furthermore, whilst saved Policy STRAT 12 of the West Lindsey Local Plan First Review (LP), adopted June 2006 restricts development in the open countryside unless it is for specified purposes, the justification for that policy indicates that the countryside should be conserved for the sake, among other things, of its biodiversity. The appeal scheme is consistent with the objectives of that policy.

6. Among other things saved LP Policies NBE 10 and STRAT 1 nevertheless seek to protect distinctive landscape features and the character and appearance of the countryside. In this regard, I acknowledge that the pond and embankments are man-made features on what was a flat field in a surrounding landscape that is, to use the Council's words, "fairly flat agricultural land with gentle undulations which are low and wide spreading." I also accept, as does the appellant, that when the pond was being excavated and the embankments were first formed, the appearance of the site may have been alarming and probably led to concerns about the purpose of the works. However, much of what we see and value in the countryside is man-made, or at least heavily influenced by man. Now that the site and the embankments have been planted with trees and are overgrown with grasses and, in the summer months, wild flowers, the works generally add interest to, rather than detract from the surrounding landscape. Furthermore, whilst the mounds² are not entirely random, in that they enclose the pond and containers and create exposed and sheltered areas and a variety of habitats and micro-climates, they are not so regimented in appearance that they represent unduly alien features in an otherwise natural landscape.
7. Two of the steel shipping containers covered by the application were located close to the bridleway, which I regard as an important public vantage point. Notwithstanding the mound formed around the north, east and west side of those containers, they would have been clearly visible and somewhat intrusive in views along the bridleway from the south. The appellant has acknowledged this and removed those 2 "trackside" containers. However, this has left the mound enclosure, which no longer serves its intended purpose, but is prominent in public views from the bridleway. The appellant has offered to lower this mound and I consider that if it were reduced to a height of no more than 1m, the harm would be overcome. This can be required by condition. As the forthcoming winter months may hamper the necessary work, I will allow a period of 6 months for this to be achieved.
8. The tops of the remaining 2 storage containers located towards the centre of the site are visible from the bridleway. Despite the fact that they have been

² Described as landscape banks on the submitted plans.

painted a sympathetic green colour, they appear incongruous. However, this could easily be remedied by filling in a gap in the top of the mound, as proposed on 'Plan B' submitted with the appeal. Again, this work can be secured by condition and a period of 6 months would be reasonable. Although these containers are only surrounded by mounding on the north, east and south sides, there are no public views from the west and private views from neighbouring land are largely screened by the extensive tree belt beyond the western site boundary and significant planting within the site itself. Indeed, the appellant states that this scheme has included the planting of around 5000 native trees and hedgerow saplings on this site, which covers approximately 5 hectares. The planting is certainly extensive and, as this matures, subject to necessary conditions, the overall scheme will represent a visual enhancement.

9. For the reasons given, I conclude on the main issue that the development enhances the character and appearance of the countryside and it increases biodiversity. Indeed, the principal objective of the scheme is to enhance biodiversity and it accords with PPS9 and with the trust of the development plan policies referred to.
10. The scheme now enjoys considerable support from local people, including the nearest neighbours. I note some concern expressed about use of the bridleway by motorised vehicles, but there has been no objection from the County Council's Highways or Rights of Way officers, who have the requisite enforcement powers. I also note fears regarding the potential for corrosion from the containers polluting the local water course. However, the Environment Agency had no adverse comment and on the evidence before me, the risks are outweighed by the overall benefits of the scheme. Similarly, whilst it has been suggested that, prior to the development, the field contained many rare orchids, I have seen nothing to substantiate that assertion and it is clear that many plant species have been introduced by the appellant.

Conditions

11. In addition to the conditions referred to regarding reducing the height of the mound, where the "trackside" containers used to be, and filling in the gap in the central mound, the Council suggests requiring a full landscaping scheme. Given the amount of planting that has been undertaken, I see no need for this, even though some of it may fail. Whilst the appellant says he could provide details of the planting already undertaken, I see no general need for that either. However, the planting on the east side of the site, adjacent to the bridleway, is particularly important in enhancing the appearance of the site from the public domain. I will therefore impose conditions requiring details of that existing planting to be submitted to the Council and securing its subsequent maintenance.
12. To safeguard the character and appearance of the area, I will also impose the suggested condition preventing storage of materials, otherwise than in the approved containers. Given the potential for increased traffic to be detrimental, I will also attach the suggested condition preventing the stocking of the pond with fish in connection with any commercial angling operation.

Conclusion

13. Having regard to my conclusion on the main issue and all other matters raised, I am satisfied that the appeal should be allowed in part and permission granted for the development (excluding the 2 "trackside" containers), subject to the conditions referred to.

Appeals A, B and C

14. By virtue of section 180 of the 1990 Act, the grant of permission on appeal D means that the notice will cease to have effect, so far as it is inconsistent with that permission. However, I will dismiss the appeals against the notice, so that it remains in force to prevent the re-introduction³ of the "trackside" containers, for which permission has not been granted.

Decisions

Appeal A: APP/N2535/C/11/2154477

15. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/N2535/C/11/2154478

16. The appeal is dismissed and the enforcement notice is upheld.

Appeal C: APP/N2535/C/11/2154479

17. The appeal is dismissed and the enforcement notice is upheld.

Appeal D: APP/N2535/A/11/2154420

18. The appeal is dismissed insofar as it relates to the permanent location of 2 shipping containers for storage, namely those shown in black adjacent to the "Pull In" on the 1:500 scale site plan and the 1:100 scale "Trackside Containers" drawing submitted with the application.

19. The appeal is allowed insofar as it relates to the construction of a conservation pond and wildlife habitat and embankment works and the permanent location of 2 shipping containers for an animal shelter and feed/bedding store respectively, namely those containers shown in black adjacent to the "LIVESTOCK PADDOCK" area on the 1:500 scale site plan and the 1:100 scale "Middle Containers" drawing submitted with the application and planning permission is granted for those things at The Haven, Wood Langham, Legsby, Lincolnshire, LN8 (which site is alternatively described as land at Clump Hill Farm, Torrington Road, Hainton, Lincoln, LN8 6LT in the enforcement notice issued by the local planning authority on 11 May 2011) in accordance with the terms of the application, Ref 126512, dated 7 January 2011⁴ so far as relevant to that part of the development hereby permitted and subject to the following conditions:

- 1) Within 6 months of the date of this decision, the height of the landscape bank shown immediately adjacent to the "Pull In" on the 1:500 scale site

³ Although those containers have already been removed, section 181 of the 1990 Act provides that compliance with an enforcement notice does not discharge it.

⁴ See paragraph 2 above.

plan and also shown on the 1:100 scale "Trackside Containers" drawing shall be reduced to a maximum of 1m above the immediately adjacent ground level.

- 2) Within 6 months of the date of this decision, the gap in the rear (eastern) elevation of the landscape bank shown immediately adjacent to the "Livestock Paddock" on the 1:500 scale site plan and the 1:100 scale "Middle Containers" drawing shall be filled in, in accordance with the 1:100 scale drawing marked "PLAN B" and submitted with the appeal, in order to obscure views of the Middle Containers from the east.
- 3) Within 3 months of the date of this decision details and drawings shall be submitted to the local planning authority indicating the species, size and density of all trees planted along the east side of the site, immediately adjacent to the bridleway.
- 4) If within a period of two years from the date of this decision any tree included in the details submitted under condition 3 hereof, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 5) There shall be no storage of materials, goods, waste or any other articles on the site otherwise than inside the approved shipping containers.
- 6) The pond hereby approved shall not be stocked with fish in connection with any commercial angling activities on the site.

J A Murray

INSPECTOR

Appeal Decision

Site visit made on 7 September 2011

by E Norma Farish BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2011

Appeal Ref: APP/N2535/A/11/2153752

Land at the rear of William Street and 17-23 High Street, Saxilby, Lincolnshire LN1 2LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Colin Miller against the decision of West Lindsey District Council.
 - The application Ref 126518, dated 24 September 2010, was refused by notice dated 29 November 2010.
 - The development proposed is erection of one-and-a-half storey, two-bedroom dwelling with associated parking and access.
-

Decision

1. The appeal is allowed and planning permission is granted in accordance with the formal decision below.

Main Issues

2. The principal issues in this case are, firstly, whether the scheme would represent over-development of a cramped site causing detriment to the living conditions of both neighbouring residents and future occupiers of the proposed dwelling, and, secondly, whether the development proposed would undermine the objectives of the Council's housing policies.

Reasons

3. The appeal site is in a large village west of Lincoln in a reasonably sustainable location conveniently close to shops and accessible to public transport. The property lies in a predominantly residential area in the older part of the village, and comprises an irregularly shaped parcel of unkempt backland, formerly parts of the rear gardens and yards to several shops and houses on High Street. Access is from William Street via a gap some 7m wide between Nos.1 and 3 William Street. This driveway also serves a recently erected house behind No.3 William Street, a domestic garage to No.25 High Street and a flat above No. 21/23 High Street.
-

-
4. The proposed two-bedroom house would be one-and-a-half storeys high with a shallow pitched roof, and would front east-north-east on to the access drive. It would have a 4m-wide area adjoining the side wall for parking and turning and a small garden area to the rear. This dwelling would be due west of the back garden of No.3 William Street and of the house behind it but would have no upstairs windows to habitable rooms facing in that direction, and would be at least 15m from the nearest ground floor habitable room window in that recently erected house.
 5. Of the only two upper floor habitable room windows, one would be in the flank wall looking south-east towards the proposed side parking area and a further area of land beyond which is in the appellants' ownership; a west-south-west facing window to the main bedroom would overlook the private amenity area, the attractive garden to No.19 High Street, the rear yard to No.21/23 High Street, which is a coffee shop, and the backs of other High Street properties. None of these properties have habitable room windows less than 21m from this proposed window and so their occupiers would suffer no material loss of privacy. The garden to No.19 would be partially overlooked, but would benefit from the removal of a large outbuilding currently on the appeal site and would retain a tall boundary wall to separate it from the garden of the proposed dwelling. As to the well cared for garden behind No.25 High Street, the new house would be south-east of and only about 1m from one end but would neither dominate nor over-shadow it to a significantly greater degree than does the existing building to be demolished.
 6. With regard to No.1 William Street which immediately adjoins the entrance to the access drive, in the side wall of that house at both ground and first floor levels are habitable room windows which have no buffer between them and passing traffic. The access area includes a wide grass verge alongside the tall privet boundary hedge to No.3 William Street and a stoned carriageway abutting the side wall of No.1. This driveway is the sole means of access, both vehicular and pedestrian, to the appeal site, as to the newly built house opposite. The proposed development would thus, both during and after the period of construction, result in increased traffic movements which could cause additional disturbance to the occupiers of No.1 and increase the possibility of physical damage to that house from passing vehicles.
 7. However, the appellants propose to move the carriageway eastward and surface it, and to provide a block-paved strip to encourage vehicles on to the re-aligned carriageway and so keep clear of the house wall of No.1. Provided that the re-alignment of the driveway were to be implemented before building works on the proposed house commenced, and suitable surface treatments were applied to the strips of land to either side, the appeal scheme should not result in significant damage to the residential amenities of No.1 William Street.
 8. For all of these reasons I am satisfied that the appeal scheme would not cause material harm to the privacy or living conditions of nearby residential neighbours, but would improve significantly the appearance of the immediate locality to the benefit of surrounding occupiers.
-

-
9. As for the proposed house itself, the rear amenity area would be barely 6.5m deep and less than 5.5m wide, but though small I consider it adequate for this modest dwelling and capable of accommodating some soft landscaping. It would not be closely overlooked and the 1.8m boundary walls indicated would provide a reasonable degree of privacy; facing south-west it should enjoy some sunlight for much of the day. The principal outlook would be on to the garden, but the front approach also would affect the attractiveness and quality of the residential environment and this would depend on the treatment of the area between the front of the dwelling and the drive carriageway. To my mind, therefore, subject to the submission and implementation of such a scheme the appeal development would not be so cramped as to fail to provide acceptable living conditions for future occupiers of the proposed house.
 10. Saved policies STRAT 1, RES 1 and RES 3 of the West Lindsey Local Plan First Review 2006 require that new housing development is provided with safe access and adequate parking and open space, and is not significantly detrimental to the residential amenities of neighbours or the character and quality of the locality. In my view the appeal scheme would comply with these aims.
 11. With regard to local housing policy, one of the provisions of saved local plan policy STRAT6 is that proposals for windfall and infill housing development in a Primary Rural Settlement such as Saxilby should have no impact, individually or cumulatively, on the housing strategy of the plan or on the phasing and release of land as set out in policy STRAT9. The latter states that sites will not be released if to do so would adversely affect the council's management of the housing land supply as required by national Planning Policy Statement 3 *Housing* (PPS3).
 12. The council approved in November 2010 the use of an annual requirement figure of 480 dwellings per annum to 2026 or a total requirement of 9600 dwellings for the period 2006-2026 for the District as a whole. The most recent assessment of housing supply, for the period April 2010 to March 2011, indicates that against local plan requirements there is already an over-supply of housing in the District and the five year housing supply that the council is required to hold is comfortably exceeded.
 13. That being said, local plan policy STRAT1 indicates that all new development will be judged against the effect it will have on the quality of the environment. The appeal site has the appearance of previously developed land in that it includes an unsightly disused building and stretches of partially demolished wall. It is untidy and overgrown and yet is part of the outlook or approach for the occupiers of several nearby dwellings. The appeal proposal would provide a small dwelling and improve the character and appearance of its immediate surroundings and the residential environment for neighbours. In these circumstances, therefore, I consider the disadvantages of the cumulative effect of one additional dwelling unit on the council's management of housing supply to be outweighed by the benefits of the enhancement of an unattractive corner of the village.
 14. Having taken into account all points raised in the representations submitted, including reference to appeal ref. APP/N2525/A/11/2144344, I have, for the
-

reasons given above, come to the conclusion on balance that the planning permission sought might be granted.

Conditions

15. In view of the relationship of the dwelling to surrounding properties, in particular the recently erected house to the east, I shall remove Permitted Development rights in order to enable any proposals for external alterations to be assessed by the local planning authority in terms of their impact on the living conditions of neighbours.
16. I shall also impose conditions to secure the use of appropriate external materials and to ensure that adequate drainage facilities are provided to serve the development and/or prevent pollution of the water environment. Other conditions deal with matters mentioned above.

Formal Decision

17. The appeal is allowed and planning permission is granted for the erection of one-and-a-half storey, two-bedroom dwelling with associated parking and access on land at the rear of William Street and 17-23 High Street, Saxilby, Lincolnshire LN1 2LP in accordance with the terms of the application, Ref 126518, dated 24 September 2010, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until details of all external walling and roofing materials to be used have been submitted to and approved in writing by the local planning authority; the development shall be carried out only using the materials so approved.
 - 3) No development shall take place until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. The development shall be carried out only and entirely in accordance with the details so approved.
 - 4) No site clearance or construction shall take place until the access drive carriageway has been re-aligned in accordance with the details shown on the drawings hereby approved.
 - 5) The laying out and surfacing of the access drive carriageway and turning/parking area shall be carried out before first occupation of the house hereby permitted.
 - 6) Notwithstanding any information on the plans hereby approved, a scheme for the surface treatment of the areas on either side of the access drive carriageway and between that and the site boundaries, including around the end of the turning head, and especially between the house hereby permitted and that carriageway, shall be submitted to and agreed in writing by the local planning authority and implemented in accordance with the details so approved, before the house is first occupied.
 - 7) Notwithstanding the provisions of Classes A, B, C and D of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without

modification), no external alterations to the dwelling, including the insertion of additional windows or dormers other than authorised by this permission, shall be allowed except with express planning permission.

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans: 4043M/09/01A, 4043M/09/02A, 4043M/09/04 and 4043M/09/05.

E Norma Farish

INSPECTOR



Costs and Decision Team
3/25 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0117 372 8789
Customer Services: 0117 372 6372
Fax No: 0117 372 6298

Mr Neil Boughey
25 The Moorings
Scawby Brook
Brigg
South Humberside
DN20 9RD

Your Ref:
Our Ref: APP/N2535/D/11/2145078
Date: 02 November 2011

Dear Sir

**LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 322
39 CRAPPLE LANE, SCOTTON, GAINSBOROUGH, LINCOLNSHIRE DN21
3QT : HOUSEHOLDER APPEAL SERVICE – APPEAL BY MISS J LAMING:
APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector's appeal decision of 1 June 2011. This refused the appeal against the decision of West Lindsey District Council to refuse planning permission for a first floor extension. This letter deals with your application for an award of costs against the Council.
2. The application was submitted on 4 April 2011. The Council responded in correspondence of 17 June 2011. As the costs representations have been made available to the parties, it is not proposed to summarise them.

DECISION

3. The costs application is refused and no award of costs is being made.

REASONS

4. CLG Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
5. The evidence from the file, including the Inspector's appeal decision and the written correspondence, has been examined in accordance with paragraph A42 of the Circular.
6. The appellant contends that the Council was unreasonable in refusing permission as there was no clear explanation as to how the proposal would fail to promote or reinforce local distinctiveness. The Council refused

permission on the basis that the proposed extension would be unsympathetic in nature by virtue of its size, scale and design to the character of the streetscene. The Inspector did not support that view and considered the development would not be unduly obtrusive in, or materially damaging to, the character or appearance of the street scene.

7. Nevertheless such matters are subjective. Whilst the submitted Officer's Report is brief, the reason given is clear and stands up to scrutiny; it is apparent from the appellant's own evidence, which refers to the case officer's notes, that an assessment of the impact of the proposal was made by the case officer which led to the reason for refusal. Furthermore there is no evidence to corroborate the appellant's view that the Council allowed themselves to be unduly influenced by, or that they rely upon, objections from third parties.
8. The Inspector also considered the impact of the proposal upon the living conditions of occupiers of neighbouring properties and found the development would be unacceptable in that regard. For that reason the appeal was dismissed which does not support the appellant's view that the Council delayed development which should clearly have been permitted.
9. For these reasons, the Secretary of State finds that unreasonable behaviour resulting in wasted or unnecessary expense, as described in Circular 03/2009, has not been demonstrated. The application is therefore refused.
10. There is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for a judicial review. This must be done promptly.
11. A copy of this letter has been sent to the Council.

Yours faithfully

Richard Perrins

Authorised by the Secretary of State
to sign in that behalf