
Costs Decision

Site visit made on 1 July 2025

by **Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st July 2025

Costs application in relation to Appeal Ref: APP/P1045/W/25/3359860 North Park Farm, Whitworth Road, Darley Dale, Derbyshire DE4 2HJ

- 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 G Lowe for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission for the erection of 1no. dwellinghouse was granted.
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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 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 respondent's delegated report assesses the proposed addition of the porch. It states *'this proposal shows a dwelling in the same position on site as approved with the additional of a single storey lean to extension on the southern elevation. The dwelling would retain a linear front elevation with openings as approved and as such is considered acceptable'*. There is no suggestion in that sentence that the porch would result in harm to the character and appearance of the proposed dwelling or to the area.
4. In their costs rebuttal, the respondent draws attention to the conclusion of the delegated report which states *'the submitted plans proposed changes to the layout, design and levels of the proposed dwelling which are not considered appropriate and would have a greater detrimental impact on the site's context, contrary to Policy. Furthermore, the submitted plans in terms of sections and levels do not match and the levels on site are not as approved'*.
5. This however does not provide any explanation as to why the changes to the design are not appropriate or why they would have a greater detrimental impact on the site's context. This lack of clarity is compounded by the fact that the earlier assessment within the same report suggests, on any fair reading, that the changes are acceptable. The failure to explain why the proposal should be refused on this basis represents unreasonable behaviour on the respondent's part, and it led to unnecessary expense in the appeal process for the applicant.

6. There was an inaccuracy between the amended cross section and layout plans, and therefore the respondent did not act unreasonably in including reference to this as their reason for refusal. However, they were evidently muddled in their understanding of the difference between a planning proposal and the planning enforcement regime.
7. The section 73 application should only have been considered on the basis of what it proposed. The fact that ground levels have been altered and do not match those which are shown on the proposed plans (or indeed those previously approved) is of no relevance whatsoever to such an application. There are separate enforcement powers to address what has already taken place, and those same powers would be available if a dwelling was constructed at variance with the approved plans. The inclusion of this in the reason for refusal was therefore also unreasonable and it too led to unnecessary expense for the applicant.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary expense has occurred in respect of the references in the reason for refusal to (i) the detrimental impact on the character and appearance of the site's context and (ii) the levels on site do not accord with the approved plans entitled Survey and Cross Section A-A, and a partial award of costs is therefore warranted.

Costs Order

9. 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 Derbyshire Dales District Council shall pay to Mr G Lowe, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the references in the reason for refusal to (i) the detrimental impact on the character and appearance of the site's context and (ii) the levels on site do not accord with the approved plans entitled Survey and Cross Section A-A; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Derbyshire Dales District 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.

Graham Wraight

INSPECTOR