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## 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: 21<sup>st</sup> July 2025

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### **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 Derbyshire Dales District Council for a partial award of costs against Mr G Lowe.
  - 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 amended cross section plan (GL.24.02) submitted by the respondent was incorrect in relation to the other plans, in particular the levels and layout plan (GL.24.01). The parties disagree as to whether an opportunity was afforded to correct that plan during the consideration of the application. But, as the respondent maintained that the plan was correct in their appeal submissions until I too pointed out that it was not, I am not convinced that they would have been receptive to changing it in any instance.
4. The onus must be on those making a planning submission to provide correct plans. If the respondent had done so there would have been no need to include this in the reason for refusal and for the applicant to have to defend their position on this matter at appeal. This represents unreasonable behaviour which led to the applicant incurring unnecessary expense with respect to this part of the reason for refusal. A partial award of costs is therefore justified on that basis.
5. The other matters referred to in the applicant's costs submission relate to the enforcement history of the appeal site and to how the information was presented in the Section 73 application in relation to the ground levels that now exist on the site. However, neither are relevant considerations in determining a Section 73 application because the respondent was under no obligation to seek to regularise any breaches of planning control under that application. The applicant instead had

enforcement powers available to address this. Therefore, there was no unreasonable behaviour on the respondent's part in those respects.

6. For the reasons given above, unreasonable behaviour resulting in unnecessary expense has occurred in respect of the plans submitted failing to provide accurate level information that is consistent between the levels and sectional plans and a partial award of costs is therefore warranted.

### **Costs Order**

7. 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 Mr G Lowe shall pay to Derbyshire Dales District Council, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of the reference in the reason for refusal that the plans submitted fail to provide accurate level information that is consistent between the levels and sectional plans; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Mr G Lowe, to whom whose agents 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