
Costs Decision

Site visit made on 23 July 2025

by **A O'Neill BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Costs application in relation to Appeal Ref: APP/F1040/W/25/3366469

Land adjacent to 253 Burton Road, Overseal, Swadlincote, DE12 6JN

- 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 Mrs Kelly Gaskin for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for the formation of a vehicular access and track.
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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 (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 PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it fails to substantiate its reasons for refusal at appeal, and/or makes vague generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application is based on the fact that Council Officers recommended that planning permission be granted for the proposal, but that the planning committee took the decision to refuse the proposal without adequate reason to do so. The applicant also asserts that the Council's actions have caused delay to the provision of the access track.
5. Whilst a planning committee is entitled to make decisions that are contrary to the officer recommendation, there is an expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects.
6. The sole reason for refusal is that the proposal would form a visually discordant feature in the rural landscape which would be unduly harmful to landscape character.
7. For the reasons set out in my appeal Decision, I have concluded that whilst the materials used in the surfacing of the track may alter the appearance of the site, the visual impact of this could be mitigated by significant landscape planting and controlled through the imposition of planning conditions. As such, the proposal

would not be harmful to the character and appearance of the area. Whilst there is an element of judgement involved in the consideration of such matters, the Council did not produce evidence to substantiate its reason for refusal at appeal.

8. Accordingly, I am of the view that unreasonable behaviour as described in the PPG has been demonstrated on the part of the Council and has resulted in the applicant's unnecessary expense in contesting the appeal. A full 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 South Derbyshire District Council shall pay to Mrs Kelly Gaskin the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to South Derbyshire 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.

A O'Neill

INSPECTOR