



Costs Decisions

Site visit made on 8 September 2025

by **Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2025

**Costs applications in relation to: Appeal A Ref: APP/W1715/D/25/3370921
& Appeal B Ref: APP/W1715/D /25/3370922**

Derry Dacy, Peewit Hill, Bursledon, Southampton SO31 8BL

- The applications are made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The applications are made by Mr Joe Dorrington for an award of costs against Eastleigh Borough Council.
 - The appeals were against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
-

Decision: Appeals A & B

1. The applications for an award of costs are refused.

Reasons

2. The Government's online Planning Practice Guidance ('the 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.

APPEAL A

3. Condition No. 9 relates to a temporary access to facilitate the building works granted permission by the Council on 10 April 2025. The access was not shown on the submitted plans for the application, in particular the Site Plan drawing no. 52 Rev. A, and at the time of the decision on the application the access had already been put in place.
4. Paragraph 50 of the Officer's Report on the application refers to the access but explains that *'as Peewit Hill is an unclassified road under Class B, Part 2, Schedule 2 of the General Permitted Development Order (GDPO) 2015 (as amended), the formation of a means of access to a dwelling from an unclassified road is permitted development and does not require separate planning permission.'*
5. However, Derry Dacy already has an existing vehicular access and the new one constructed is at the bottom of the hill some distance from the dwelling and provides access to a substantial area of land that although within the red line of the application plan is to be separated from the dwelling by a new hedge.
6. Bearing in mind that the access has had a significantly adverse effect on the landscape as mentioned in my Decision Letter, I consider that Members were prudent to recognise that its purpose was not for day-to-day access to Derry Dacy

but to facilitate the works during the building. The temporary period and the inclusion of a requirement for the access to be removed, and for the land to be reinstated and planted in the interests of visual amenity, are all pertinent given the uncertainties, including not being shown on the Site Plan. The condition was drafted by officers and is suitably worded and complies with all six tests for conditions

7. In the event, the subsequent submission of details under the landscaping condition (No. 5) in respect of the proposed much-reduced size of the access and associated boundary treatment will, if signed off by the Council, satisfactorily resolve the matter and ensure that the site no longer harms the character and appearance of the area. Nonetheless, I do consider that the condition was necessary and reasonable as part of the granting of permission and that it would have been unwise for the Council to rely on a landscape plan, which at that stage was not yet before the Council, for the removal of an oversized access of a commercial or industrial character harmful to its rural setting.
8. For these reasons and having taken full account of the appellant's claims in the costs application, I find that the Council was fully justified in its decision to refuse permission for the removal of condition no. 9 on planning permission reference H/24/98601. Nor are there any procedural irregularities that support the case for an award of costs.

APPEAL B

9. The Decision Notice for the original application Ref. H/24/98601 explains that the reason for the imposition of condition No. 10 is to '*protect the amenities of the locality and to maintain a good quality environment*'. In this regard the Council has explained its view that Derry Dacy has a long planning history with several refusals for development of excessive bulk and scale which would have had an urbanising effect on the countryside.
10. The scheme granted permission in April 2025 is of a reduced overall scale and in particular exercises restraint with a hipped roof. However, as mentioned in my Decision letter, in seeing Derry Dacy for the first time I considered that despite hipped roofs normally having less impact than gables, the scale and design of the extended building does somewhat draw the eye, rather than being subordinate to rural surroundings that, the nearby M27 notwithstanding, have the character of openness and a good quality of landscape.
11. Paragraph 2.4 of the Council's Costs Rebuttal clearly and succinctly explains why in this instance why condition No.10 withdrawing permitted development rights is needed, even allowing for the Government's advice that this is not normally appropriate. In essence, permission Ref. H/24/98601 has increased the built form to an extent whereby Derry Dacy, with its location as a dwelling adjacent to an open area of a Settlement Gap of high landscape quality, has limited potential for further alterations and additions if it is to avoid harmful conflict with the relevant policies and guidance.
12. In particular, as the land between the host dwelling and the M27 slip road has the dual qualities of both openness and attractive landscape, there is legitimate concern that a domestic curtilage (as defined by the application red line) is so large that it also includes a meadow not used for day-to-day garden and ancillary uses.

This is because Class E tolerances for outbuildings have the potential to undermine both openness and landscape quality. The policies for the area are clear as regards the need for restraint and given that the withdrawal of permitted development rights in condition No. 10 does not preclude further proposals in principle but allows the Council to first appraise their impact, I consider condition No. 10 to be reasonable and necessary.

13. As with Appeal A, there are no procedural issues that justify an award of costs.

Conclusion (Appeals A & B)

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in the case of either Appeal A or Appeal B.

15. Accordingly, awards of costs are not justified, and the applications are refused.

Martin Andrews

INSPECTOR