



Costs Decision

Site visit made on 2 December 2025

by **A.Graham BA(hons) MAued IHBC**

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/X1355/D/25/3374911
7 Diamond Terrace, Durham DH1 5SX

- The application for costs 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 Peter Smith for an award of costs for professional fees against the decision of Durham County Council.
 - The application Ref: DM/25/00643/FPA.
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Decision

1. The applications for award of costs is refused.

Reasons

2. 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. In this case the Appellant is aggrieved primarily due the Council allegedly failing to consider the proposed plans for the scheme in a proper manner. In particular, this resulted in the planning case officer presenting the scheme in their delegated report as including a 4m high retaining structure as opposed to a 3m retaining structure as included in later revised plans.
4. Further to this there is debate between the parties with regards the inclusion of the proposed rear sliding gate in this application and whether it constituted a fall back position under the household's permitted development rights. As such it is suggested that the Appellant incurred unnecessary costs in engaging professional services for the application and subsequent appeal. The Appellant believes that this constitutes unreasonable behaviour.
5. In assessing this application for costs I have received comment from the Council dismissing these concerns and stating that the Council assessed the plans correctly and providing evidence that the revised plans showing the lower retaining wall were part of a formal re-consultation, to which the Council's Senior Design and Conservation Officer raised concerns. Moreover, the Council contend that the proposed sliding gate to the rear would be adjacent to a highway for the purposes of the Town and Country Planning (General Permitted Development) Order 2015 (GDPO) and that it was correct to include the gate within the submission.
6. In assessing this appeal for costs, I consider that the failure to correctly relate the scheme within the Officer's delegated report was not of the standards that would be expected. However, I am unconvinced that this means the Council failed to correctly assess the scheme before them and I see the consultation response from the Council's Design and

Conservation Officer to that effect whereby they appeared rather frustrated that previous advice had not been followed. As such I consider that, despite the mention of the 3m retaining wall, the assessment was clearly made on the revised plans and that the same issues were identified as those shown on the previous plans. As such the Council may have been in error in failing to mention this material change in the Officer's report, but this error does not constitute unreasonable behaviour.

7. With regards whether the proposed sliding gate would have been allowable under the GDPO and whether it represents a fallback position. There is dispute between the parties here and no formal certificate suggesting any formal judgement has been made on this issue. As such I do not consider it unreasonable for the Council to suggest that the proposed gate would require planning permission as it clearly considers that the rear lane would meet the definition of a highway.
8. Although I appreciate the frustration involved in this application and although the ultimate refusal of planning permission did result in the need for this appeal and the costs associated with it, I do not consider that the actions of the Council represent unreasonable behaviour as defined in the Planning Practice Guidance. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

A Graham

INSPECTOR