
Appeal Reference:	2022/A0219
Appeal against:	The refusal of full planning permission to remove Condition No.5 of planning permission LA09/2019/0944/F to retain infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin New Access laneway 130m west of the junction of Iniscarn Road/Gortahurk Road, existing access onto Iniscarn Road to be permanently closed. Condition No.5 of LA09/2019/0944/F requires the removal of culvert and ancillary works
Location:	90A Iniscarn Road, Desertmartin, BT48 9RW
Claim by:	Mr P Bradley
Claim against:	Mid Ulster District Council for a full award of costs
Finding by:	Commissioner McShane, dated 21 August 2024.

Finding

1. There is no provision to award costs in respect of an appeal submitted under Section 54 of the Planning Act (Northern Ireland) 2011 (the Act).

Reasons

2. The Act, which came into operation on 1st April 2015, empowers the Planning Appeals Commission to make orders as to the costs of the parties in planning and related appeals.
3. Section 205 of the Act enables the Commission to make costs awards in appeals under the following provisions of the Act:
 - Section 58 – planning appeals;
 - Section 60 – appeals against failure to take planning decisions;
 - Section 96 – listed building consent appeals;
 - Section 97 – appeals against failure to take listed building consent decisions;
 - Section 105(6) – appeals concerning conservation area consent;
 - Section 115 – hazardous substances consent;
 - Section 143 – appeals against enforcement notices;
 - Section 159 – appeals against listed building enforcement notices;
 - Section 165 – appeals against notices enforcing replacement of trees;
 - Section 173 – appeals concerning lawful development certificates; and
 - Schedules 2 and 3 – appeals concerning reviews of mineral planning permissions.

4. The power to make costs awards is not available for any appeals under the Act that are not listed in Paragraph 3 above. The present application is made under Section 54 of the Act. Accordingly, there can be no award of costs.

COMMISSIONER MCSHANE