



Costs Decision

Site visit made on 1 February 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Costs application in relation to Appeal Ref: APP/A2335/D/21/3288032 Bainsbeck Farm, Kirkby Lonsdale Road, Arkholme LA6 1BA

- 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 Mr Edward Hayton for a full award of costs against Lancaster City Council.
 - The appeal was against the refusal of planning permission for the demolition of two small domestic outbuildings and replacement with a garage/workshop/store.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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 appellants claim for costs relates to the Council's handling of the planning application in particular with regard to the buildings and wall to be demolished. The chronology of events submitted with this appeal indicates that at some stage in its assessment, the Council changed its mind about the demolition. I note that the advice to the appellants seems to have gone from seeking amendments to the proposed building to stating that at least part of the structure to be demolished should be retained¹ and an alternative location should be sought for the proposed building.
4. The appellant's frustration is understandable given the length of time taken to determine the application and what appears to have been a fairly late change of view regarding the demolition. It is clear however, that the Council were not satisfied with the scale and appearance of the proposed building and although amendments were sought, it was still considered unacceptable. Having said this, the construction of a new building in this location would necessitate the removal of the existing buildings and wall especially given the appellant's firm view that it is currently unstable and incapable of retention. I agree that it certainly appeared in a poor state at the time of my site visit although no structural report has been submitted to clarify that this is the case.

¹ Reference is made to keeping the wall with its brick facing on the basis of it forming part of a traditional garden wall.

5. I am inclined to agree that the Council's approach in dealing with the application has been unreasonable as if the retention of the wall was paramount this should have been made clear to the appellant. However, the Council have been consistent in expressing concern about the proposed building and although amendments were made these did not overcome the harm to the significance of the non-designated heritage assets and the Conservation Area.
6. In assessing whether costs should be awarded it is necessary to demonstrate that the Council's behaviour has been unreasonable and that unreasonable behaviour has resulted in wasted or unnecessary costs in the appeal process. Whilst I consider that the Council's behaviour in determining the application was unreasonable, the refusal relates as much to the proposed building as the demolition works proposed. The appellant has therefore exercised his right to appeal but I do not consider that he has incurred unnecessary or wasted costs in the appeal process.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

J D Clark

INSPECTOR