
Costs Decision

Site visit made on 27 July 2022

by M Clowes BA (hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Costs application in relation to Appeal Ref: APP/A2335/W/22/3290722 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 to grant prior approval for demolition of outbuilding.
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Decision

1. The application for an 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. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. The applicant's cost claim is made on the grounds that the Council made inaccurate assertions regarding the circumstances leading to the need for the demolition of the outbuilding and wall, and that they have misinterpreted the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
4. By the applicant's own admission, the north-eastern wall collapsed due to the failure of a lintel which was wet and rotten. No evidence in the form of a structural survey has been presented to demonstrate that the outbuilding and associated garden wall is beyond repair. There is no evidence before me that the Council made assumptions regarding the specific circumstances of the appeal proposal. Condition 1(a) of Class B, Part 11, Schedule 2 of the GPDO is clear that if a building has been rendered unsafe or uninhabitable by the inaction of a landowner and it is possible to secure the structure by works of repair or temporary support, demolition is not permitted development. Planning permission would therefore be required.
5. Furthermore, the applicant consistently agrees with the Council that the garden wall is part and parcel of the outbuilding to be demolished. As the wall is over 2m high, I am clear that it does not meet the exceptions for demolition within a Conservation Area, as set out under 4b of the Conservation Areas (Application of section 74 of the Planning (Listed Buildings and Conservation Areas) Act

1990) Direction 2015. Consequently, in my decision I have found that the Council were justified in their decision to refuse the prior approval application for demolition.

6. The Inspector's findings with regard to unreasonable behaviour as part of a costs claim in relation to appeal reference 3288032 have no bearing on the claim before me, given it related to a planning application and a different set of circumstances. The Council dealt with the prior approval application promptly and within the prescribed time period. They have expressed concern about the demolition of the outbuilding and associated kitchen garden wall, as evidenced in the consultation response from the Principal Conservation Officer in respect of the previous planning application (reference 21/00235/FUL). The applicant had prior knowledge of this response before submitting the current proposal.
7. I do not find unreasonable behaviour on the part of the Council but this instead, highlights the difference of opinion between the parties in respect of the parameters of the GPDO and legislation governing the proposal.

Conclusion

8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs is not justified.

M Clowes

INSPECTOR