

Costs Decisions

Site visit made on 12 July 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

**Costs application in relation to Appeal Ref: APP/B2355/W/21/3286680
Close Nook Farm, Rochdale Road, Ramsbottom, Bury, Lancashire, BL0 0RR**

- 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 and Mrs C Brown for a partial award of costs against Rossendale Borough Council.
 - The appeal was against the refusal of planning permission for a replacement farmhouse.
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- 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 Rossendale Borough Council for a partial award of costs against Mr and Mrs C Brown.
 - The appeal was against the refusal of planning permission for a replacement farmhouse.
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Decision

1. The application for an award of costs by Mr and Mrs C Brown against Rossendale Borough Council is refused.
2. The application for an award of costs by Rossendale Borough Council against Mr and Mrs C Brown is refused.

Reasons

3. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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.

Application for an award of costs by the applicants

4. The applicants consider that the Council behaved unreasonably by refusing the planning application on grounds relating to the loss of the existing farmhouse; by failing to provide a detailed assessment of why the farmhouse should not be replaced; and by relying on vague and generalised reasoning and resulting in an appeal that should have been avoided.
5. The reason for refusal in the decision notice does not refer to the loss of the existing farmhouse, only to the harm and the policy conflict arising from the proposal. The Council has no objection in principle to replacement dwellings in the countryside. Its concerns in this case relate to the visual impact of the proposal and not to any fundamental objection to the loss of the existing farmhouse.

6. Irrespective that the existing farmhouse is not a heritage asset nor of particular architectural merit, the applicants acknowledge that it is a building of which there are many with the same characteristic in the general area. Moreover, they acknowledge that it is in an attractive upland landscape. Therefore, it does not appear unreasonable of the Council to consider the contribution of the existing farmhouse to the character and appearance of the area or to find that its demolition and replacement with a large modern dwelling divorced from the farm buildings would erode the character and appearance of the area.
7. The Council did not fail to provide a detailed assessment of why the existing farmhouse could not be replaced. No such assessment was required because permission was not refused on grounds that the loss of the farmhouse would be unacceptable.
8. The Council's decision will have been a disappointment to the applicants and they disagree with the Council's assessment and its conclusion. Irrespective, the Council's concerns can be clearly understood from the decision notice and the Officer report. It has not been demonstrated that the Council behaved unreasonably in the processing of the application or that its behaviour resulted in unnecessary or wasted expense in the appeal process.
9. Therefore, the application for an award of costs is refused.

Application for an award of costs by the Council

10. The Council is applying for costs incurred in rebutting the applicants' costs application, on grounds that the applicants claim for costs is based on a case unrelated to the reason for refusal and that was not argued by the Council.
11. An award of costs is an order which states that one party shall pay to another party costs which have been incurred by the receiving party during the process by which the Inspector's decision is reached. Where a party has behaved unreasonably, directly causing another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
12. Irrespective of the merits of the applicants' claim, they were entitled to exercise their right to apply for an award of costs. The costs incurred by the Council in responding were incurred in the costs regime and not as part of the appeal process by which the appeal decision was reached. The parties are expected to meet their own costs. The Council has not demonstrated how the applicants' claim for costs resulted in unnecessary or wasted expense beyond what would be reasonable to expect as part of the process.
13. Therefore, the Council's application for an award of costs is refused.

Sarah Manchester

INSPECTOR