

Costs Decision

Site visit made on 14 April 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2026

Costs application by Andrew Thompson Appeal ref: APP/A2335/C/25/3369959 Kellet Bridge Farm, Kellet Lane, Carnforth, LA6 1AB

- The application was made under the Town and Country Planning Act 1990, Sections 174, 322 and Schedule 6, and the Local Government Act 1972 Section 250(5).
- The application was made by Andrew Thompson for an award of costs against Lancaster City Council.
- The appeal was made under section 174 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against the issue of an enforcement notice.

Decision: The application for an award of costs is not allowed.

Application - submissions made by Andrew Thompson

1. The Council initially served an enforcement notice on the Appellant, Andrew Thompson, on 27 June 2025. The notice had been issued on 15 June 2025. It had an effective date of 28 July 2025. This initial notice contained 3 requirements. The Appellant's representatives wrote to the Council on 2 July to highlight what they considered to be fundamental flaws in that notice, including referring to the vagueness of the stated need to reinstate a 'boundary line' and that the works would be permitted under Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015. It was suggested the enforcement notice should be withdrawn.
2. The Council then altered the enforcement notice on 4 July by removing requirement (ii). However, they did not amend the date of issue, the date for compliance or references to the removed original requirement (ii). The failure to make that alteration to the notice meant it fell short of the necessary minimum of 28 days before coming into effect.
3. The Council did not explain the justification for taking enforcement action. The notice failed to identify any specific harm arising from the alleged offences and did not address concerns raised by the Appellant in the July Letter. As such, the Council's actions appeared overzealous and without apparent specific consideration of the impact of the works, permitted development rights or a proportionate use of their powers.
4. The Council's errors led directly to all costs associated with the appeal. No other local authority acting reasonably would have arrived at the same position having been given repeated opportunity to correct its own errors of ambiguity and confusion.

Response by Lancaster City Council

5. The original enforcement notice dated 23 June 2025 Council was sent 1st class post to Kellet Bridge Farm. It was to take effect on 28 July 2025, if not appealed earlier. It allowed 35 days to take effect – more than 28 days required by s.172(3)(b) of the Act. The Appellant wrote to the Council on 2 July to request the notice be withdrawn, claiming fatal flaws. Upon review, requirement (ii) that required 'reinstatement of a wall,' was deleted as it could be done under permitted development rights.

6. The varied notice was sent on 4 July, a copy posted 7 July. It took 6 days from the request to issue a new notice. More than 28 days' notice remained.
7. The notice's requirements were clear. Also, a plan within Appendix B showed the previous width of the access. The harm caused by the unauthorised works was set out within section 4. The Council had engaged with the Appellant's representative regarding wording used in the notice. A varied enforcement notice was served. The Council were satisfied with the notice's wording. They did not agree that the enforcement notice should be withdrawn. The Appellant should not be awarded full costs.

Inspector's conclusions

8. Irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result.
9. As the Council said, the enforcement notice dated 23 June 2025, was to take effect on 28 July 2025, unless appealed before then, allowing 35 days to take effect. That adequately allowed for service by post. The notice contained 3 compliance requirements. The Council, unnecessarily in my view, varied the notice by deleting requirement (ii) on 4 July. Because the Council did not amend the date of issue or particularly the date for compliance, the amended notice did not provide at least 28 days before coming into effect. I find little of note in the claim that the Appellant was disadvantaged by the Council's slip in not amending the dates on the enforcement notice. The notice had been amended at the Appellant's instigation, following professional advice. He could not have been unaware of the Council's intentions.
10. A local planning authority does not need to be certain that a breach of planning control has occurred or there are no grounds of appeal; it is for an appellant to establish such grounds. But it must 'appear' to the local planning authority that the matters have taken place – the case of *Ferris v SSE & Doncaster MBC* [1988] JPL 777 is authority for that position. The National Planning Policy Framework requires that local planning authorities act proportionately in responding to any suspected breach of planning control. However, there is no requirement that breaches must be enforced against consistently. In *Donovan v SSE* [1987] JPL 118 it was held: *That the local planning authority had not taken enforcement action against similar breaches was not a material consideration; there is no requirement that all breaches of planning control are enforced against consistently.* A local planning authority may issue a second enforcement notice even if the first is in force and in similar terms or if there are ongoing proceedings, *Koumis v SSCLG* [2012] EWHC 2686 (Admin). S.172 does not prevent a local planning authority from issuing further enforcement notices in respect of the same breach or a wider area, *Biddle v SSE & Wychavon DC* [1999] 4 PLR 31.
11. I find no demonstration of unreasonable behaviour having resulted in unnecessary or wasted expense, as described in the Planning Practice Guidance. An award of costs against the Council is not justified.

COSTS ORDER

12. No order as to costs is made.



INSPECTOR