



Costs Decision

Site visit made on 5 April 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

**Costs application in relation to Appeal Ref: APP/T4210/W/23/3332224
The Coach House, Former Ainsworth Nursing Home, Knowsley Road,
Ainsworth, Bury BL2 5PT**

- 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 & Mrs K J & V Stopforth for a full award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing building and erection of two detached dwellings.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. A previous appeal to demolish the building and erect two dwellings was dismissed¹. In that appeal, the Inspector was not persuaded that the loss of the appeal building could not be mitigated against but found that the proposed scheme was not of sufficient design quality to mitigate against the loss.
4. Following that dismissal, the appellants focussed on the design of the new dwellings for the submission of a revised scheme. They sought to address specific comments made by the previous Inspector and took into account the details of a scheme for a new dwelling recently approved by the council on land to the south-west of the appeal building².
5. However, in its delegated report for this proposal, the Council states that even if the two new dwellings were of exceptional quality it would still not mitigate against the total loss of a heritage asset. The appellants have taken this as indicating that the Council's position against the loss of the existing building was entrenched and no mitigation under any circumstances would be possible. This, they state would contradict the views of the previous Inspector.
6. Although the Council's statement suggests that an acceptable scheme is not possible it goes on to assess the proposed development. Its decision is based on the effect of the demolition and proposed new dwellings on the non-designated heritage asset, the character and appearance of the area and the effect on the living conditions of the occupiers of The Haven and The Wash

¹ Appeal Ref: APP/T4210/W/22/3298500.

² Planning Application Ref: 68661.

House. The Council justify its reasoning based on adopted development plan policies.

7. Section 16 of the Framework does not suggest that mitigation is necessary for the loss of a non-designated heritage asset but requires a balanced judgement to be made about the scale of the harm to the significance of the asset. In this case the proposal would result in the total loss of the asset. It therefore follows that the acceptability of any new build or replacement is balanced against the harm caused by the loss.
8. I am satisfied that the Council has not behaved unreasonably. Its decision has not prevented development that otherwise should clearly have been permitted, having regard to the development plan, national policy and other material considerations and the appellants therefore have not incurred unnecessary or wasted expense in submitting this appeal.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR