
Costs Decision

by Ms S Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 March 2023

**Costs application in relation to Appeal Ref: APP/J3015/X/22/3300684
17 Templar Road, Beeston, Nottingham, NG9 2DX**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Yue (Y&Q Deyi Hang Ltd) for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for C3 to C4.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour but the list is not exhaustive.
4. The Council misapplied s192 of the Town and Country Planning Act 1990. The Council did not determine the application for the lawful development certificate (LDC) under the circumstances which existed on the relevant date. The relevant date was the date of the application, 16th March 2023.
5. Instead, it erroneously took account of the fact that the permitted development right to change the use of the C3 dwelling to a C4 house in multiple occupation would be removed at some point in the near future by the Article 4 Direction. That is not the correct approach under s192.
6. The failure of the Council to correctly apply the legislation amounts to unreasonable behaviour which has resulted in unnecessary expense for the appellant in appealing against the refusal of the LDC.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Broxtowe Borough Council shall pay to Mr D Yue (Y&Q Deyi Hang Ltd), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Broxtowe Borough Council, details of those costs with a view to reaching agreement as to the amount.

Siobhan Watson

INSPECTOR