



Costs Decision

by Ms S Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

**Costs application in relation to Appeal A Ref: APP/T5150/X/23/3318744
2 Brentfield Close, Brent, London, NW10 0QJ**

- 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 the Council of the London Borough of Brent for a full award of costs against Mr Abraham Spitzer.
 - The appeal was against the refusal of a certificate of lawful use or development for a C4 house in multiple occupation.
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**Costs application in relation to Appeal B Ref: APP/T5150/X/23/3322000
2 Brentfield Close, Brent, London, NW10 0QJ**

- 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 the Council of the London Borough of Brent for a full award of costs against Mr Abraham Spitzer.
 - The appeal was against the refusal of a certificate of lawful use or development for a C4 house in multiple occupation.
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Decision

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

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. The appellant's case rested on there being a claimed lawful C3 use that he had reverted back to which he then claimed gave him permitted development rights for a change of use to C4.
4. The appeal site is subject to an enforcement notice which was upheld on appeal before the appellant applied for the Lawful Development Certificates. The previous Inspector, in his appeal decision held that there was no lawful C3 use that the dwelling could revert to. He gave explicit reasoning in relation to this. The claim from the appellant, therefore, that the property had a lawful C3 use was completely at odds with the previous appeal decision.
5. The Planning Practice Guidance (PPG) is clear that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. An example of unreasonable behaviour given in the PPG is when the appeal follows a recent appeal decision in respect of the same, or a very similar development on the same site where and

Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.¹

6. This example is analogous to how the appellant has behaved because it remains the case that there is no lawful C3 use at the property and it remains the case that the enforcement notice requires the HMO use to permanently cease. The appellant ignored the findings of the previous appeal decision and he has ignored the effect of the enforcement notice. The appeal had no reasonable prospect of succeeding.
7. Furthermore, the appellant has previously been awarded costs against him on the basis that he pursued a ground (a) appeal when he could have been reasonably expected to know that permitted development rights did not apply due to the intervening use between the C3 use and the C4 use. It is astonishing that he has made this argument again.²
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.
9. 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 Mr Abraham Spitzer shall pay to the Council of the London Borough of Brent, 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.
10. The applicant is now invited to submit to Mr Abraham Spitzer, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Ms S Watson

INSPECTOR

¹ Paragraph: 053 Reference ID: 16-053-20140306

² Paragraph 9 of Costs Decision APP/T5150/C/18/3219015