



Costs Decision

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Costs application in relation to Appeal Ref: APP/F5540/X/24/3351077

99 Inwood Road, Hounslow, TW3 1XH

- 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 Hounslow for a full award of costs against Vaibhav Johri.
 - The appeal was against the refusal of a certificate of lawful use (LDC) for the use of 99 Inwood Road, Hounslow as four flats.
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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. In LDC cases the applicant is responsible for providing sufficient information to support an application. However, the PPG is clear that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
4. The Council claims that the submission of additional information by the appellant, which was not before them when determining the LDC application, was unreasonable and has caused wasted expense by the requirement to seek legal advice on the additional evidence.
5. The Council's assessment of the initial supporting documentation found that the evidence submitted was often 'inconclusive' and failed to demonstrate active use of one of the four units laid out in the building at 99 Inwood Road. Although individual documents may have been inconclusive in themselves, the raft of evidence was generally consistent with the appellant's claim. The claim was also supported by the statements of several third-parties.
6. Despite this, the Council provided little evidence to contradict the appellant's claim or make the applicant's version of events less than probable. Moreover, the Council determined the application, dated 13 December 2023, on 5 March 2024. In the interim, in an email dated 29 February 2024, the Council had confirmed to the appellant that its investigation had 'established that this matter [the use of the building as four flats] is immune from enforcement action under Section 171 of the Town and Country Planning Act 1990 (as amended)'. It further confirmed that

‘Accordingly, the Council is unable to take any action and therefore the enforcement investigation has now been closed’.

7. Having received that correspondence, there would be reasonable expectation on the part of the appellant that the LDC application would be approved, and no additional evidence would be necessary to support the application at that time.
8. In the context of the above, and having made 2 previous applications for LDCs, it is unsurprising that the appellant resorted to submitting supplementary evidence as he is entitled to do¹. In those circumstances, I find that action did not amount to unreasonable behaviour.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Hitchcock

INSPECTOR

¹ See Encyclopaedia of Planning Law and Practice P195.03