



Costs Decision

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Costs application in relation to Appeal Ref: APP/E3335/X/23/3333867 Pennys Peace Cottage, Mackley Lane, Norton St. Philip, Frome, Somerset BA2 7NL

- 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 Ms C. Blumberg for a full award of costs against Somerset Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for the use of a dwelling in breach of condition 3 of permission 109395/005 for a period in excess of 10 years.

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. The applicant contends that the Council failed to apply the correct tests in case law to the determination of the application for the certificate, despite the evidence being clearly set out within the application. This has resulted in the Council being wrong in its approach and wrong to conclude that when each of the tenancies ended that there was an end to the breach of the condition. There is also reference to the lack of any statement of case being submitted by the Council.
4. The Council clearly sets out in the Case Officer Report the reasons that would have been given to refuse the application, if it had been determined. It's reasoning centres on the length and frequency of the period that the property was unoccupied following each of the tenancies, the details of which were provided. The Report satisfactorily addresses the approach taken by the Council in light of the length of the vacant periods.
5. While I have found differently when making my decision on the appeal, I find that consideration of the matter of whether the periods of vacancy were sufficient, in terms of their length and frequency, to result in a break in the continuity of the breach of the condition, is a matter of planning judgement. Indeed, in this case, I find that the matter was a finely balanced judgement. Accordingly, while disagreeing with the Council, I do not find that it has ignored the approach advocated by case law, nor has it been unreasonable in its approach to the application.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Martin Allen INSPECTOR