



Costs Decision

Inquiry held on 11 and 12 March 2025

Site visit made on 12 March 2025

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Costs application in relation to APP/C5690/X/24/3355497

9 Ellerdale Street, London SE13 7JX

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Yuda Stroli for a full award of costs against the Council of the London Borough of Lewisham.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for a House in Multiple Occupation use.
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Decision

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

The submissions for Mr Stroli

2. The costs application was made orally at the inquiry. Procedurally, the appellant says the Council refused to properly engage with the LDC application. In particular, the appellant says they could have submitted additional evidence to help demonstrate the alleged use was lawful on the date of application, if the Council had allowed them this opportunity. This includes information in response to certain gaps in their evidence highlighted by the Council, including utilities information and deposit information. If the Council had engaged in this way, the appellant says the LDC could have been approved, which would have avoided the need for an appeal. The appellant also says the Council relied on photographic evidence as part of its determination of the appeal application, without verifying its content.

The response by the Council

3. The response was made orally at the inquiry. For LDC applications, the Council says it is under no statutory or policy obligation to contact applicants to seek additional evidence where gaps are identified. The Council said its Statement of Community Involvement makes this clear.
4. The Council says there was no verbal discussion between the applicant and the Council during the course of the application, and where gaps in evidence had been identified, the applicant did not mention anything to do with rent deposits or gas certification in its emails. The Council highlighted that the applicant sought to withdraw the application prior to determination, which they say is indicative of how “hopeless” it was. The Council also says the application would clearly have been refused even if more dialogue between the parties had taken place, which means an appeal would not have been avoided. In turn, the Council says it has not

behaved unreasonably, and even if it had, that behaviour has not resulted in wasted expense by the applicant.

Reasons

5. 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.
6. The Council's Statement of Community Involvement (2023) is explicit that LDC applications will be assessed on the applicable legislation. S191(4) of the 1990 Act says:

If, on application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application [...], they shall issue a certificate to that effect, and in any other case they shall refuse the application.
7. The burden is clearly on the appellant to provide sufficient evidence to demonstrate the lawfulness of the use sought. Otherwise, the Council is entitled to refuse the application in accordance with the statutory provisions outlined above. The Council was under no obligation to seek further information from the applicant where gaps in their evidence had been identified, nor was it unreasonable for them not to do this.
8. In any event, the applicant's evidence submitted as part of the appeals process was also insufficient to demonstrate use of the property as an HMO was lawful at the date of application. Even if there had been more dialogue between the parties prior to determination of the application, this suggests the outcome would have been the same. This means an appeal would not have been avoided.
9. It was also entirely reasonable for the Council to consider the photos submitted by neighbours as part of the overall evidence base in respect of the application. However, given the weaknesses in the applicant's own evidence, the outcome of the application (and the appeal) would have been the same, even without the photos.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr James Blackwell

INSPECTOR