
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 the Council of the London Borough of Lewisham for a full award of costs against Mr Yuda Strolí.
 - 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 allowed in the terms set out below.

The submissions for the Council

2. The costs application was submitted in writing and repeated orally at the inquiry. The Council says the respondent has behaved unreasonably, both procedurally and in substance. They say evidence was produced during the inquiry for the first time which was not addressed in written submissions. They also say the respondent has not come close to discharging the burden of proof in respect of the appeal, and moreover that evidence provided by the respondent is manifestly untrue or inaccurate. The Council says this amounts to unreasonable behaviour, which has directly caused the Council to incur unnecessary or wasted expense in the appeal process.

The response for Mr Strolí

3. The response was made orally at the inquiry. The respondent says they would have provided the Council with additional evidence if they had been given the opportunity to do so. They say photos submitted by neighbours show nothing and do not undermine their case. In particular, the photo which shows the construction hoarding does not show the side of the property, where access could also be gained. They also say the photo showing delivery of a large fridge was not a delivery to the appeal property. Overall, the respondent says they have acted reasonably and to the best of their ability.

Reasons

4. 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.

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5. The respondent's written evidence was sparse and new evidence was raised during the inquiry for the first time. Notably, Mr Liss was called to give evidence in place of Mr Weiser even though Mr Liss had not prepared a Proof of Evidence. Mr Liss' evidence included extensive new information pertaining to the case. Such oral evidence included claims of an open house viewing of the appeal property on 2 January 2024 and the appointment of a new managing company on 6 February 2024. The introduction of this information during the inquiry was clearly material to the respondent's case, and there was no reason why it could not have been provided as part of the respondent's written submissions. Its introduction at this late stage was unreasonable.
 6. More critically, the evidence from neighbours, including oral testimony given on oath and dated photographs, severely undermines the respondent's case, noting there is nothing before me to indicate the dates of the photos have been falsified. Indeed, whilst the respondent was given the opportunity to cross-examine Mr Cummings during the inquiry, they did not use this opportunity to interrogate the dates of the photos. Had the respondent had such concerns, they should have done so at this time.
 7. Together, the evidence from neighbours presents a very different timeline of occupation than presented by the respondent. As set out in the appeal decision, it seems very unlikely that the property would have been occupied by tenants prior to the building safety inspection, particularly whilst potentially unsafe construction works were ongoing. On the available evidence, the only rationale conclusion to draw from this evidence is that the property was not occupied as an HMO during this time. This would mean much of the respondent's case, including sworn testimony and evidence given on oath, was untrue or inaccurate.
 8. Overall, I therefore conclude that the respondent's appeal had no reasonable prospect of success. Their pursuit of an appeal has directly led to the Council incurring unnecessary and wasted costs in defending their decision. Unreasonable behaviour resulting in unnecessary or wasted expense has therefore occurred and a full award of costs is warranted.

Costs Order

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 Yuda Stoli shall pay to the Council of the London Borough of Lewisham, 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 Yuda Stoli, 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

Mr James Blackwell

INSPECTOR