



Costs Decision

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by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Costs application in relation to Appeal Ref: APP/J2210/X/24/3342685

Padma House, The Drove, Fordwich CT2 0DE

- 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 Lt. Col. Martin Neame and Dr Helen Neame for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal in part of a certificate of lawful use or development for the use of a building as a self-contained residential dwelling.
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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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. Paragraph 049¹ of the PPG highlights the examples of unreasonable behaviour by Local Planning Authorities (LPA) where costs can be awarded. The applicant has submitted that the LPA has acted unreasonably in that the LPA failed to substantiate why, on the balance of probabilities, the applicants' evidence was not sufficient. Also, the LPA failed to appropriately consider, and follow, well-established case law and thus unreasonably withheld a Lawful Development Certificate (LDC), and so delayed a development that should clearly have been permitted and avoided an appeal.
4. In terms of an LDC application, s191(4) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) states:

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.
5. The burden is therefore, clearly on the applicant to provide sufficient evidence to the LPA to demonstrate the lawfulness of the use sought. Otherwise, the LPA is entitled to refuse the application, as it did, in part, in accordance with the statutory provisions outlined above.

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

6. I appreciate the applicant supplied extensive evidence in the form of statutory declarations and legal opinions, at both the application and appeal stages. Nevertheless, the LPA were not satisfied on the balance of probability, that it was sufficiently precise and unambiguous. The LPA therefore sought further information from the applicant, requesting clarification in the form of records showing council tax records and utility bills which would have assisted them in reaching a balanced decision, and I do not find it unreasonable for them to have done this.
7. Whilst, on balance, I have found that the evidence adduced by the applicants was sufficient to prove their claims, I can understand that the lack of utility bills, council tax records and also the information provided in the planning application CA/17/02818, raised questions for the LPA in its assessment of the LDC application. The description of the use in the application also cast doubt regarding the now claimed independent residential use. In this regard, I find that the LPA was not unreasonable in reaching the decision that it did.
8. As a result, I do not find that the applicants have been subject to wasted expense at the appeal stage. I consider that the costs incurred by the applicant in pursuing the appeal, were the normal costs arising when the right of appeal is exercised. I therefore find that unreasonable behaviour by the LPA, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR