



Costs Decision

By A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/H1515/X/22/3302418

Building A, Meadow Farm, Beggar Hill, Fryerning CM4 0PG

- The application is made under the Town and Country Planning Act 1990 as amended, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Michael Merrigan for a full or partial award of costs against Brentwood Borough Council.
- The appeal was in connection with an appeal against the refusal of a certificate of lawful use or development (LDC) for the retention of existing residential use at Building A.

Decision

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

Reasons

2. The Planning Practice Guidance 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. An award of costs does not necessarily follow the outcome of an appeal. My decision on the LDC appeal fully explains why I have found the appeal fails and I will not rehearse the reasons here.
3. The applicant argues that they submitted sufficient evidence to demonstrate a lawful existing residential use of Building A, and that they also responded, on time, to requests for further information. Despite all this, the complaint is that the respondent unreasonably refused the LDC application. For the following reasons, I do not consider the respondent behaved unreasonably in refusing the LDC application.
4. Firstly, the onus is on the appellant to make their own case and to provide sufficiently precise and clear evidence in support of their application. I too find that the quantum of documentary information presented is inconclusive because it did not clearly and unambiguously show when Building A became a dwelling and how it has been used as a single dwellinghouse for a period of four years without significant interruption.
5. Secondly, while I have taken a different approach to the analysis of the LDC application, both parties focussed too much on trying to prove or disprove residential use of Building A. The approach adopted by both appeal parties was fundamentally flawed in terms of case law and I explain why in my Decision. Nevertheless, I am satisfied that the respondent provided reasonable arguments in defence of its refusal of the LDC application and that decision was, ultimately, well-founded.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is unjustified.

A U Ghafoor

INSPECTOR