



Costs Decision

Site visit made on 10 June 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Costs application in relation to Appeal Ref: APP/G5180/X/23/3334426

54 Homesdale Road, Bromley BR2 9LD

- 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 Dr Ning Zhang for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of a certificate of lawful use or development for a C4 HMO.
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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. The PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include preventing or delaying development which should clearly be permitted; failure to produce evidence to substantiate each reason for refusal on appeal; and not reviewing its case promptly following the lodging of an appeal.
3. The applicant states they are making an application for an award of costs on substantive grounds as the Council has unreasonably withheld issuing a lawful development certificate (LDC) and that it has failed to give any substantial weight to Assured Shorthold Tenancies (ASTs) and deposit certificates. The applicant also asserts that the Council has failed to substantiate its reasons for refusal, has not reviewed its case promptly following the lodging of the appeal and has raised concern at the appeal stage regarding the time period between the applicant's ownership of the property and occupation, without supporting evidence.
4. The Council has set out its reasons for refusing the LDC application within a letter dated 3 November 2023, namely that it considers insufficient evidence has been submitted to substantiate the claim that the use of the premises as a house in multiple occupation occurred prior to the 1st September 2022. The Council has set out in its delegated report further detail as to why it refused the application, including reference to information available to the Council. The Council has also provided a Statement of Case through the appeal, setting out why it still considers the applicant has not discharged their burden of proof.
5. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. However, it is not obliged to go back and seek clarification from an interested party: as set out in my decision letter, the burden of

- proof in an LDC is on the applicant, not the Council. The Council was not unreasonable in taking the third party's comments into account. The weight to be given to evidence from a third party is a matter for the decision maker.
6. The Council's officer report is brief, with limited analysis of the evidence submitted by the applicant. Council Tax and Licensing records are referred to, setting out that they do not record or confirm that the property has been banded or registered as a C4 HMO¹. In my experience, local planning authorities will often look to Council Tax information and licensing information when considering applications relating to the use of residential properties as HMOs. The fact that the Council has done so in this case is not unreasonable. The applicant has responded to these points through the appeal, and I note the Council has not pursued this as a reason for objecting to the application in its statement of case, suggesting it has reviewed its case following the lodging of the appeal.
 7. The Council refers to an application form for 22/03461/PLUD, dated 1 September 2022, which identifies the existing or last use as C3 – Dwellinghouses. The Council expands upon this point in its statement of case. While I have found the applicant's explanation in respect of the application to be plausible, this is a matter of judgement. The Council has maintained its objection through the appeal. It is clear therefore, that even if the Council had sought clarification from the applicant on this matter, this would not have resolved its concerns, the application would still have been refused, and the appeal would still have been necessary.
 8. The Council advises it considers the period of time between acquisition and the purported material change of use to be implausible. While I have disagreed with the Council on this matter, I can understand the Council's concern. Even where limited physical changes are required to a property, certain safety checks are likely to be required prior to the property being let out, such as testing of electrical equipment. I do not believe the Council was unreasonable in exercising its judgement in this way. Although the Council raised its concern on this matter through the appeal, it was raised in its Statement of Case, giving the applicant sufficient time to address the point in accordance with the appeal timetable.
 9. While I have found the evidence shows on the balance of probabilities, that the material change of use occurred before 1 September 2022 and was permitted by the GPDO, there **is** evidence which, in my view, undermines this claim and which the Council has referred to, both in its delegated report and its appeal statement. Furthermore, the applicant has provided additional evidence through this appeal which was not available to the Council at the time of its decision, and which has supported the applicant's case. It is clear the Council maintains its objection and so even if further analysis of the ASTs and deposit certificates had been provided, the appeal is still likely to have been necessary.
 10. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Savage

INSPECTOR

¹ Use of a dwellinghouse by not more than six residents as a "house in multiple occupation"