
Costs Decision

Site visit made on 8 September 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Costs application in relation to Appeal Ref: APP/D0121/W/25/3364481 131 High Street, Weston Super Mare, BS23 1HN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Fifty Property Development Ltd for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for conversion of vacant retail unit (Use Class E) on ground, mezzanine and first floors to create 5no. studio apartments.
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Decision

1. The application for an award of costs is allowed in part in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The applicant's assertion that the Council acted unreasonably in refusing the application is not supported by the evidence. The Council's decision was based on clearly articulated and substantiated planning grounds, which are relevant to the assessment of the proposal.
4. As seen in my appeal decision, the applicant had not sufficiently demonstrated that the first floor of the building has been in Use Class E for a continuous period of at least two years prior to the submission of the prior approval application, as required by Class MA of the GPDO. This is ultimately a matter of fact and degree, based on the evidence provided.
5. Given the uncertainty surrounding the use of the first floor of the appeal building, it was neither unreasonable nor illogical for the Council to advise the applicant to submit an application for a Certificate of Lawful Development, supported by appropriate evidence. This approach aligns with established planning practice and would have provided a clear and authoritative determination of the building's use, which is fundamental to assessing eligibility under Class MA of the GPDO.
6. The applicant contends that the Council acted unreasonably by taking into account the unlawful use of the appeal building for cannabis cultivation. While the Council was entitled to consider the lawfulness of the cannabis cultivation operation and its implications for the use of the building, it introduced prejudicial factors into its decision-making process by considering the cannabis cultivation operation may have resulted in mixed use of the building, thereby disqualifying it from the

permitted development rights under Class MA. The Council acted unreasonably by speculating the cannabis cultivation operation constituted a lawful use, despite having limited evidence to substantiate their assessment. This has led to unnecessary and wasted expense for the applicant, who was compelled to address these matters as part of the appeal process

Conclusion

7. The need for the applicant to deal with the issues set out above relating to the cannabis cultivation operation mean that I find unreasonable behaviour by the Council, resulting in unnecessary and wasted expense as described by PPG, has been demonstrated and a partial award of costs is justified.

Costs Order

8. 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 The City Council shall pay to applicant the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the issues raised by the Council in relation to the cannabis cultivation operation within the building.
9. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

U P Han

INSPECTOR