Planning Inspectorate

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 North Somerset Council for a full award of costs against Fifty Property Development Ltd.
- 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.

Decision

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

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 Council contends that Fifty Property Development Ltd has provided manifestly inaccurate or untrue statements regarding the use of the building and has failed to correct their statement or provide supporting evidence that the building has been in Use Class E for at least two years before the prior approval application was made.

4. Fifty Property Development Ltd submitted Council business rates bills, as part of their appeal statement, to demonstrate that both the ground and first floor of the appeal building are subject to business rates charges. Fifty Property Development Ltd also referred to the grant of planning permission for change of use of the first and second floors of the appeal building to a health and beauty clinic. While these factors, alone, do not confirm that the entire building has been in Use Class E for the required minimum period, they do not necessarily represent manifestly inaccurate or untrue information.

5. While the evidence submitted by Fifty Property Development Ltd to demonstrate that the building has been in Use Class E has been found to be insufficient, evidence has nevertheless been provided to support their assertions. Therefore, it cannot be fairly asserted that Fifty Property Development Ltd has acted unreasonably by failing to provide supporting evidence.

6. The Council has referred to another application[1] made by Fifty Property Development Ltd for the ‘Proposed change of use from a cafe (Class E) with ancillary accommodation at first floor to a large house in multiple occupation

[1] Ref. 24/P/1501/FUL.

(HMO), (Class C4) for up to 8no. people with office and communal areas at ground floor (sui generis)' at the appeal site. I do not find that this necessarily conflicts with Fifty Property Development Ltd's claim that the first floor has been in Use Class E. As explained in my appeal decision, paragraph MA.1.(1) (b) of the GPDO only requires the timeframe of the use under Class E to have taken place for at least two years before the application was made. Therefore, I do not find Fifty Property Development Ltd acted unreasonably by providing allegedly conflicting statements.

7. The Council contend that Fifty Property Development Ltd has acted unreasonably by pursuing an appeal that clearly does not meet the requirements of Class MA of the GPDO and by declining to submit a Certificate of Lawful Development. The decision to pursue an appeal, rather than submit a Certificate of Lawful Development, does not in itself constitute unreasonable behaviour. Fifty Property Development Ltd was entitled to seek prior approval and to have the merits of their case assessed through the appeal process.

Conclusion

8. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

U P Han

INSPECTOR