

Costs Decision

Site inspection on 7 October 2025

by John Whalley

Inspector appointed by the Secretary of State

Decision date: 15th October 2025

**Costs application by Liverpool City Council
in connection with appeal ref: APP/Z4310/X/25/3360128
No. 41 Cretan Road, Liverpool L15 0HR**

- The application was made under the Town and Country Planning Act 1990, Sections 174, 322 and Schedule 6, and the Local Government Act 1972 Section 250(5).
- The application was made by Liverpool City Council for an award of costs against Mr Tanzeel Rehman.
- The appeal was made under section 195 of the Town and Country Planning Act 1990, (the Act), as amended by the Planning and Compensation Act 1991 against the refusal of Liverpool City Council grant a certificate of lawful use or development.

Decision: The application for an award of costs is not allowed.

Application – submissions by Liverpool City Council

1. The application evidence did not cover the vital timeframe of just before during and just after the Article 4 Direction was applied, 17 June 2021. The submitted statutory declaration said in 2020-2021 the property was vacant due to the COVID 19 pandemic.
2. No other evidence showed the property vacant at that time. It was concluded it did not demonstrate the premises were used as a 3 bed HMO continuously before, on and after 17 June 2021 when the Article 4 direction came into force. The onus of proof was firmly upon the Applicant. The decision makers could only make decisions based on information before them.
3. At the time of the appeal, the Applicant submitted new information in the form of Council Tax records from April 2020 to March 2025. While Council Tax records do not form adequate evidence of number of occupants within a property in relation to HMOs, the record sufficiently demonstrated the property was vacant between 1 April 2020 and 30 June 2021 with Student Occupation beginning 1 July 2021.
4. The evidence was then sufficient to demonstrate vacancy of the property during and just after the Article 4 came into force. It showed the property did not revert to a single family dwelling at that time.
5. The Council did not have all of the information when making the decision. They had to expend unreasonable amount of time assessing information that should have been submitted at the application stage. As such evidence was available, but not submitted earlier, it amounted to unreasonable behaviour that caused the Council unnecessary expense in dealing with the appeal.

Response – Mr Tanzeel Rahman

6. Mr Rahman did not respond.

Inspector's conclusions

7. Costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Where a party has – (1) behaved unreasonably and – (2) this has directly caused another party to incur unnecessary or wasted expense, they may be subject to an award of costs.
8. The Town and Country Planning (Development Management Procedure) (England) Order 2015, Section 39 deals with applications for a certificate under section 191(1) or 192(1) of the 1990 Act. Para. (2) (b) says an application must be accompanied by ... (b) such evidence verifying the information included in the application as the applicant can provide.
9. Even though the Council considered they had been presented with incomplete information upon which to base their decision, the LDC application was validated. The evidence presented at the time of the application in the statutory declaration stated the property was vacant in 2020 - 2021 because of the COVID 19 pandemic.
10. The application evidence showed that a C4 HMO use at No. 41 Cretan Road began after October 2010, (Order amendment (2) to the Use Classes Order), but before the Article 4 Direction came into force on 17 June 2021. That lawful HMO use was therefore not caught by the Article 4 Direction. Unless lost by a material change of use for example, the HMO use would have persisted even if the property had been vacant for quite lengthy periods of time. However, the Council questioned that when the property was not in an HMO use around 2020 – 2021, it might have reverted to a C3 single family home use, although it was not clear why that concern arose. But if the Council had evidence to that effect, they would likely have made use of it to show that if a C4 HMO lawful use had already been established, it would have been lost, superseded by a new lawful C3 use.
11. At the time of the Council were considering the LDC application, they had the Applicant's evidence that the property was vacant. The information was, according to the Council, incomplete. But it was not necessary for the application to consider or set aside any speculative intervention uses. Such matters could be more appropriately considered, if relevant, in any possible subsequent appeal.
12. In the present case, it was not shown how the Council were caused any unnecessary or wasted expense in relation to the appeal.

DECISION - COSTS ORDER

13. No order as to costs is made.

John Whalley

INSPECTOR