

Costs Decision

Site visit made on 14 November 2025

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 19th November 2025

Costs application by Liverpool City Council in relation to appeal ref:

APP/Z4310/X/25/3360551 No. 3 Alpass Road, Liverpool L17 7BB

- 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 Stephen Rice, McGovern Architectural Design.
- The appeal was made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against the refusal of by Liverpool City Council grant a certificate of lawful use or development, (LDC).

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

Application - submissions made by Liverpool City Council

1. The Council had requested details of tenancies from the Applicant during the application process. They had not been forthcoming. They were later submitted as part of the appeal.
2. The Council had determined the application for a Lawful Development Certificate, (LDC), on the basis of evidence submitted, the onus being on the Applicant to provide all necessary details. As the extra information was not available when the decision was made, the Council had to expend an unreasonable amount of time on the original application and later to assess the case with additional information. It should all have been submitted as part of the initial application. Failing that, it should have been part of a new application.
3. Evidence readily available but not submitted with the LDC application, constituted unreasonable behaviour which had caused the Council unnecessary expense in dealing with the appeal, in addition to having made a decision on the original application. The Appellant thus avoided the cost of a new application.
4. An award of costs was made on the basis that the Appellant has behaved unreasonably. That had caused the Council wasted expense in the appeal. They sought costs of the same fee that should have been submitted for a new Certificate of Lawful Development Certificate Application, (£588).

Response by Stephen Rice, McGovern Architectural Design

5. Mr Rice had not acted unreasonably or caused unnecessary expense as described in Planning Practice Guidance paras 030 and 049 and para 38 of the National Planning Policy Framework.
 6. In Appeal Decision APP/E2001/X/24/3347082 dated 17 April 2025, the Council had commented that the Appellant put forward additional evidence beyond that submitted as part of the application. However, in appeals made under s.195 of the Act, the parties and interested persons may submit additional evidence which was not before the authority at the time of its decision.
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7. An Inspector should consider any relevant new evidence advanced at the appeal, since the purpose of the LDC provisions were to enable the making of an objective decision based on the best facts and evidence available when the decision is taken. The Council commented that the Tenancy Agreements were not clear, but further copies were provided. The Appellant provided everything in his possession at the time of the application as shown by e-mail correspondence with the Council.

Inspector's conclusions

8. Irrespective of the outcome of the appeal, 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. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result.
9. The Encyclopaedia of Planning Law and Practice comments at P195.03 that '*the wording of subs. (2)-(3) rather suggests that s.195 appeals are strictly limited to a review of the authority's decision. However, they are invariably treated as de novo appeals...the parties and interested persons may submit additional evidence to the [SoS] which was not before the authority at the time of its decision*'.
10. Government guidance in document: Certificate of lawful use or development appeals: procedural guide at 2.1.5. says Potential appellants should consider the reasons for refusal carefully when deciding whether to make an appeal. Appellants should be confident at the time they make their appeal that they have a clear case and do not need to rely on evidence that was not available to the LPA when it made its decision.
11. In *Scrivens v SSCLG* [2013] unreported - In making a partial award of costs to the Council on the basis of (an unreasonably large) quantity of evidence produced by the Appellant, it was said the Inspector should have indicated the proportion of evidence upon which that award was based. In the absence of such an indication the decision had to be quashed. In the present instance, the Council quantified their costs application specifically to the fee that would have been required to make a repeat application to include the additional information supplied following the formal decision to refuse to issue an LDC. However, I consider that would be excessive. Whilst it would have been better that the original application for an LDC had been appended by information submitted at the time of application, said to have been all that was available at that time, plus the tenancy details subsequently supplied, the Council's total work of considering the application would have been similar to that subsequently needed to add consideration of the new evidence. It would have been unreasonable to decline to consider the extra evidence, effectively requiring a further application.
12. The Council referred to appeal APP/Z4310/X/24/3348111 where they had been awarded costs. But late evidence there would have seen a reversal of the decision, somewhat different to the consideration here of extra details. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, was not demonstrated. An award of costs against is not justified.

COSTS ORDER

13. No order as to costs is made.



INSPECTOR