



Costs Decisions

Hearing held on 21 April 2026

Site visit made on 21 April 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th May 2026

Costs application in relation to Appeal Ref: APP/U2615/X/25/3376590

82-84 Walpole Road, Great Yarmouth NR30 4NG

- The applications are made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - Application A is made by Mr Barrett on behalf of Barret Asset Management Ltd (the Appellant) for a full award of costs against Great Yarmouth Borough Council (the Council).
 - Application B is made by the Council for a full award of costs against the Appellant.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development “to confirm that the existing use as a House in Multiple Occupation comprising a self-contained, three-bedroom Owner’s or Manager’s Flat and 15no. letting bedrooms and associated facilities would not need planning permission to convert the Owner’s/Manager’s Flat and to undertake internal alterations and thereafter to use the entirety of the building and curtilage as a 20-bedroom, 20-person (single person occupancy) House in Multiple Occupation (Sui Generis use).”
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Decisions

1. The applications for awards of costs are both refused.

Preliminary Matters

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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

Application A: By the Appellant against the Council

The submissions for the appellant

3. The costs application was submitted in writing prior to the Hearing. In summary the appellant seeks a full award of costs on the basis that the Council failed to have proper regard to planning law and case law, and that the appeal was unnecessary since the LDC should have been granted. In particular, the applicant claims that the Council acted unreasonably which resulted in wasted expense in so far as:
 - (a) It is for the Council to explain how the difference between the authorised use and the proposed use amounts to a change in the character of the use to an extent that a material change of use (MCU) occur. That did not happen.
 - (b) The Council sought amendments and clarifications throughout the process, but when these were presented, they disregarded them and therefore this failure to engage constructively or to accept clarification during the application process

further compounded the unreasonable behaviour, contrary to the procedural guide for Certificate of lawful use in paragraph 2.1.2.

- (c) The Council's reference to s73 of the 1990 Act and that the description of development cannot be altered also relates to unreasonable behaviour. This reference raises concerns about how the decision-making process was carried out and questions if the LPA applied the correct section of the 1990 Act.

The response by the Council

- 4. The response was submitted in writing prior to the Hearing. In summary, the Council considers that it has acted reasonably and proportionately throughout the application process, with proper regard to planning law and procedure, and state that:
 - (a) No unreasonable behaviour occurred during the application. The application was correctly assessed as a proposal for a certificate of lawful proposed use, for which the main consideration was whether the proposed changes constitute development. The delegated report demonstrates that the Council had proper regard to relevant planning law and reached a reasoned judgment on the evidence before them. Whether that judgement is fair is a matter for the appeal and not costs.
 - (b) The Council also acted reasonably in its consideration of legal principles, including drawing parallels with s73 caselaw. This approach was explanatory and supportive, not determinative, and was included to assist the appellant in understanding why a full planning application would be required.
 - (c) Throughout the application process, the Council engaged proactively with the appellant, repeatedly requesting additional evidence regarding concerns that the loss of the self-contained flat would constitute development, and offering opportunities to address this concern. However, no substantive evidence was provided to demonstrate that the loss of the self-contained manager's flat would not result in development.
 - (d) The late proposed plans did not resolve this fundamental issue and still involved the change of use of the majority of the self-contained flat. Furthermore, the revised plan was for a different development than that which was originally sought with the LDC application. Therefore, the application was determined based on the application and drawings, as originally submitted.
 - (e) The subsequent submission of a full planning application for the same change of use reinforces the Council's position that the proposal constitutes development and that a certificate of lawful use was not appropriate. The pattern that the agent has adopted in submitting multiple appeals of which several have been followed by planning applications within a short timeframe is considered unreasonable and has led to an unnecessary waste of public resources.

Reasons

- 5. The appeal is not unnecessary and arises because there is disagreement between the parties as to the materiality of the proposed change. These disagreements

- which were discussed at length at the Hearing do not result in any unreasonable behaviour.
6. Indeed, it will be seen from my decision, that I agree with the Council's that based on the specific circumstances of the case, the proposed increase in occupation of the HMO and the loss of the manager's/owner's flat would be an MCU. It follows that I am satisfied that the Council has substantiated its case with detailed evidence and legal arguments, which apply to the specific circumstances of this site.
 7. The Council did engage proactively with the appellant throughout the application process and post decision. Indeed, the Council sought clarification from the appellant that the loss of the self-contained manager's/owner's flat would not result in an MCU. Clearly sufficient clarification was not provided to satisfy the Council of this.
 8. The revised plans submitted which proposed that Room 1 would be a "manager's room" was not consistent with the original description of the development on the application. Given the lateness of this proposal, and that it was fundamentally different from the application description originally sought, it was not unreasonable for the Council to disregard this revised proposal. Indeed, at the beginning of the Hearing the appellant also agreed that this appeal should be determined on the basis of the original drawing submitted with the LDC application.
 9. Furthermore, I accept the Council's explanation that they were simply drawing parallels with s73 caselaw, in an attempt to aid and explain why the proposal would require a planning application. This was supportive, rather than determinative. The substance of the Council's case remained that the proposal would constitute a MCU, and therefore the Council have correctly applied the law.
 10. I am satisfied that the Council has not acted unreasonably by the refusal of the LDC application. Therefore, the appellant has not been put to any unnecessary or wasted expense with dealing with this appeal.
 11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the appellant's claim for costs fails.

Application B: By the Council against the Appellant

The submissions for the Council

12. The costs application was submitted in writing at the Hearing. In summary, the Council seeks a full award of costs relating to the appellant's unreasonable behaviour during the course of the appeal which has put the Council to unnecessary expense for both procedural (the appellant's behaviour during the appeal) and substantive (the appellant's position/ merits of the case) in so far as:
 - (a) The Appellant's application for an LDC was for 20 bedrooms without an owners/manager's flat. The Appellant changed their proposal in their appeal statement to be 20 bedrooms with a manager's room. At the Hearing, the appellant then conceded that they no longer proposed any on-site management accommodation, and that the original proposed plans submitted with the LDC application should only be considered. Therefore, the Council was put to wasted

and unnecessary expense in responding to the lack of clarity on these two matters.

- (b) During the Hearing, the appellant appeared not to agree that the existing lawful use was that which was set out in the 2003 LDC¹ but failed to provide a clear and cogent counter interpretation of the lawful existing use. This led to unnecessary debate through the course of the Hearing discussion.
- (c) During the Hearing it became apparent that the proposed floor plan (July 2025) was inconsistent with the appellant's intended use for part of the appeal site. Room 1 is shown to comprise a sitting room, kitchenette and bedroom, and was proposed as a separate manager's flat in the amended (withdrawn) plan. However, the appellant presented it as communal facilities during the Hearing. This created confusion and uncertainty in the number and type of letting rooms and facilities proposed, which is contrary to the PPG requirements for applications for LDCs to be precise and that the applicant is responsible for providing sufficient information to support their application. The appellant conceded during the Hearing that the plan was ambiguous.

The Appellant's Response

13. The response was submitted in orally during the Hearing. In summary, the appellant states that:

- (a) It is clear that the information submitted by the appellant at the application stage was sufficient for the Council to issue a decision in respect of the application and to respond to this appeal. Therefore, whilst there was some discussion about the internal configuration of HMO, this did not amount to wasted time at the Hearing. Nor was there need for any adjournment or additional expense.
- (b) The Hearing does drive discussion and has enabled the parties to describe their views on the lawful use and whether the proposed use would be lawful under s192 of the 1990 Act.
- (c) The discussion relating to the proposed description and the plans was initiated by the Inspector, and answered broadly by the parties before the Hearing, which has not led to any unnecessary debate, but clarification, which is the purpose of a Hearing discussion.
- (d) The appellant has provided sufficient information, on the balance of probabilities, the proposal use would be lawful. The discussion surrounded the disagreement. Nothing the appellant has said has been manifestly incorrect or untrue.

Reasons

14. As I have outlined above, under the appellant's cost application, the appeal is not unnecessary and arises as a result of a genuine disagreement between the parties regarding the materiality of the proposed change. The appellant conceded at the beginning of the Hearing that they did not seek to pursue the revised proposed description and the proposed plan (November 2025). Thus, there was no wasted expense during the Hearing, and there was no need for adjournments to consider this revised proposal.

¹ Council ref: ref 06/03/0318/EU

15. Whilst the appellant disagreed with the Council with regard to the existing lawful use of the site and whether the proposal would be lawful, I do not believe that this disagreement was unreasonable. These are matters for the appeal decision rather than the costs applications.
16. The appellant did state during the Hearing that the proposed drawing is “ambiguous” in so far as it does not accurately illustrate the scheme for which the appellant is seeking an LDC. The PPG advises in paragraph 52² that examples of unreasonable behaviour which may result in an award of costs includes providing information that is shown to be manifestly inaccurate or untrue. As such, the submission of an ambiguous and inaccurate plan was unreasonable behaviour by the appellant.
17. Nevertheless, the main issue of the appeal is whether the proposed use would be an MCU. The Council would have submitted a statement of case and attended the 1-day Hearing in any case for this main issue. Therefore, whilst I accept that the submission of an ambiguous and inaccurate proposed plan is unreasonable behaviour, on this occasion, it has not resulted in any unnecessary or wasted expense in dealing with this LDC appeal.
18. Therefore, the Council’s claim for costs fails.

Conclusions

19. In both applications therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and no awards of costs are warranted.

R Satheesan

INSPECTOR

² Reference ID: 16-052-20140306 Revision date: 06 03 2014