



Costs Decision

Site visit made on 2 June 2026

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02nd June 2026

Costs application in relation to Appeal Ref: APP/E2340/X/26/3377732

16 Hillside View, Brierfield, Lancashire, BB9 5DU

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Baytamor Limited for a full award of costs against Pendle Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the change of use from a dwelling (use class C3) to a residential institution (use class C2).
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Decision

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

Reasons

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. The PPG advises that unreasonable behaviour may be procedural relating to the appeal process, or substantive relating to the issues arising from the appeal.
3. The appellant's costs application asserts that the Council failed to produce any objective evidence to substantiate its reason for refusal, that it ignored and contradicted its own professional officer advice, that it acted in a manner inconsistent with the approved lawful development certificate (LDC) reference 25/0511/CEA at the same property and for an almost identical use, and that it failed to determine the application on a proper fact and degree evidential basis.
4. While it is the case that in respect of the subject appeal it relates to the same staffing levels, shift patterns, parking provision and operational arrangements as considered as part of the approved LDC (ref. 25/0511/CEA), it is not the case that the subject appeal proposal is the same. Importantly, the appeal proposal was for the care of three children rather than the approved two children. While I have concluded, as a matter of fact and degree, that the proposal would not give rise to a material change in the character of activities from what has gone on previously, particularly from a car parking and activity point of view, I nonetheless consider that the Council has substantiated its position that an additional child would likely result in additional movements, activity and likely additional car parking requirements in relative terms.
5. The above is essentially a matter of planning judgement. It was not unreasonable, in my judgement, for the Council to reach the conclusion it reached in terms of the materiality of the proposed change of use. I recognise that a similar proposal was

considered by officers and recommended for approval prior to the subject LDC application being submitted for determination. However, the Planning Committee members were entitled to reach a different view to the officers at this time and to exercise planning judgement on the evidence that was before it.

6. It is not the case that just because a third child would not drive, it would mean that there was not therefore a commensurate increase in activity and/or car parking demand associated with that additional child. Indeed, it was reasonable for the Council to have concluded, based on the appellant's evidence, that some additional professional or other visits and/or movements and activity would be likely in this regard. The appellant asserts that the Council should have produced objective evidence to support its claim about this matter. However, the onus was on the applicant to demonstrate that the proposed development or activity proposed was lawful.
7. While similar appeal and Council LDC decisions elsewhere were submitted in support of the LDC application, the Council is not bound by these decisions. The Council was entitled to reach a decision on the facts and evidence supporting the LDC application which is the subject of this appeal. I am satisfied that the Council did make a decision on a fact and degree basis and that in respect of this appeal it reasonably differentiated between the approved LDC, use of the property as a class C3 dwellinghouse, and the proposal, in so far as reaching a view that a material change of use would have occurred if the proposal had been instigated or begun on the date of the LDC application.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Hartley

INSPECTOR