



Costs Decision

Inquiry held on 23 & 24 June 2026

Site visit made on 23 June 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 08 July 2026

Costs application in relation to Appeal Ref: APP/T3725/X/26/3378058

The Annexe at Glenthorne, Five Ways Road, Hatton, Warwickshire, CV35 7HZ

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard O'Flynn for a full award of costs against Warwick District Council.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for use as a single dwellinghouse.
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Decision

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

Procedural Matters

2. The application for costs was made in writing prior to the Inquiry sitting and the Council responded in writing. No further costs submissions were made during the Inquiry and I have thus dealt with the application on the basis of the initial written case and the Council's rebuttal. The applicant did not respond to the Council's rebuttal.

Reasons

3. 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.
4. The appellant is seeking a full award of costs for substantive reasons and contends that the local planning authority (LPA) acted unreasonably in refusing to grant a Certificate of Lawful Use or Development (LDC). He submits that the LPA refused his LDC application¹ on the false premise that the evidence he had provided to them in respect of the use of the appeal building since 14.11.2019 was imprecise and ambiguous. In particular, he believes that the LPA ignored the material fact that they had formally determined that the Annexe has the unauthorised use as a separate dwellinghouse on 18.08.2020 (W20/0940) and that there had been no material change in circumstances since then. Furthermore, the appellant contends that the LPA also ignored the material fact that the Secretary of State had formally determined that the Annexe has the use as a separate dwellinghouse on 25.02.2025 (APP/T3725/X/24/3339528 & APP/T3725/X/24/3343915), and that there had been no material change in circumstances since then.

¹ LPA Ref: W/25/1757, decision dated 13.02.25.

5. In terms of a substantive award of costs, a LPA may be at risk of an award of costs where, for example, they persist in objecting to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, or failure to produce evidence to substantiate each reason for refusal on appeal².
6. In response to the application for costs, the LPA refutes the appellant's stated assertions as to what are material facts relating to the planning history of the site, including the interpretation by the LPA and subsequent appeal decisions. Considering application ref: W/20/0940, the LPA acknowledge that the officer report suggested an unauthorised use as a dwellinghouse. However, the formal LPA decision was to refuse the LDC on the basis that the Annexe had not been used continuously as a separate residential dwelling for the four-year period prior to the submission of the application. That decision was subsequently upheld on appeal. The Inspector concluded that the appellant had not established that the Annexe was a separate dwelling, and with the evidence before her suggesting a functional relationship between the Annexe and Glenthorne. The LPA in this appeal case relied on those Inspector's findings³.
7. Furthermore, the Secretary of State did not formally determine that the Annexe had a use as a separate dwellinghouse in 2025. Indeed, the Inspector's Decisions in 2025 determined that: "*no persuasive case was made that the LDC application building and the 'red line' plan land had acquired a lawful use as a separate residential dwelling by the passage of time*"⁴. Again, the LPA relied on the 2025 Inspector's decision in this appeal case.
8. It can be seen by my decision that I did not agree with the LPA decision to refuse the application. However, that was not because the LPA had not had regard to the findings in previous Inspectors' decisions. Instead, I found that for the relevant time period in this appeal case, the evidence of the appellant was sufficiently precise and unambiguous to establish, on the balance of probability, that the use of the Annexe as a separate dwellinghouse was lawful. Whilst that was not the Council's opinion, the LPA clearly set out in their statement of case and proof of evidence their reasons for refusing the application, including case notes from Council Officers who had been monitoring the use of the site. An LPA Officer also gave evidence to the Inquiry.
9. Whether, on balance of probability, the appellant's evidence was sufficiently precise and unambiguous, is primarily a matter of judgement. For the reasons given above, I am satisfied that the LPA adequately substantiated its reasons for not issuing an LDC and the appeal could not have been avoided.
10. I therefore conclude unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elizabeth Pleasant

INSPECTOR

² PPG:049 Reference ID: 16-0489-20140306.

³ APP/T3725/X/20/3257925.

⁴ Para. 28 APP/T3725/X/24/3339528; APP/T3725/X/24/3343915.