Planning Inspectorate

Costs Decision

Inquiry held on 2, 3 and 4 June 2026

Site visit made on 3 June 2026

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2026

Costs application in relation to Appeal Ref: APP/J2373/C/26/3377202
Land and building known as 302 Promenade, Blackpool FY1 2EY

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by 1508 Seaside Limited for a full award of costs against Blackpool Council.
- The inquiry was in connection with an appeal against an enforcement notice ("the notice") alleging the material change of use of the property from self-contained holiday flats to permanent self-contained residential flats for persons with no other place of abode.

Decision

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

The submissions for 1508 Seaside Limited (the applicant)

2. The costs application was made orally at the inquiry and in writing. The applicant contends that the following actions of the respondent were unreasonable:

    - It failed to properly investigate the historic use of the property, including flat-by-flat analysis, before issuing the notice. It did not engage with the owner or consider historic documents and instead relied on limited information in online reviews and Valuation Office Agency documents without testing the actual use on the ground.
    - It maintained that the material change of use occurred around January 2024 without sufficient evidence and did not properly engage with the evidence produced by the applicant.
    - The notice contained inaccurate addresses, and a copy was not served on the company operating the premises.
    - It failed to properly assess the effect of the 3-month period for compliance with the notice on the occupiers of the apartments.

The response by Blackpool Council (the respondent)

3. The response was made in writing. The respondent contends that:

    - The burden of proof in demonstrating that development is immune from enforcement action rests with the appellant, i.e. the applicant.
    - It had gathered evidence to support its position and there were shortcomings in the applicant's evidence. A flat-by-flat assessment was not necessary

because the allegation relates to the use of the whole building as a single planning unit.

- The alleged inaccuracies and failings in service of the notice could have been pursued in an appeal on ground (e) but were not.
- It accepted in the inquiry that the period for compliance could be extended to 6 months, and this should be compared with the 1-week notice period that the occupiers are entitled to under the terms of their licences.

Reasons

4. 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.

5. It is not incumbent on a local planning authority to conduct an extensive search for evidence that others may hold when investigating a potential breach of planning control. It is sufficient that it draws a reasonable conclusion from the evidence it knows of and has. It is good practice to make the owner or operator of the premises aware of the view that is being taken, so that dialogue might be entered into and enforcement action might be avoided.

6. In this case, the respondent inspected the building on 18 June 2025. The applicant confirmed by email 12 days later that it fully understood the respondent's concerns, which must therefore have been put to it. The email also advised that an application for a Certificate of Lawful Existing Use or Development was being prepared, to be lodged within 28 days, i.e. by 28 July 2025.

7. The applicant's email indicates it was content to gather and submit evidence that the respondent did not have and committed to doing so within a reasonable timescale. However, there is no evidence of further communication until the notice was issued on 1 December 2025. The period of 4 months between the applicant's email and the issue of the notice is 4 times longer than the period the applicant had indicated it needed to gather and submit the relevant evidence. Accordingly, it had ample opportunity to bring that evidence to the respondent's attention before the notice was issued and I find no fault in the respondent's action in this matter.

8. The onus to demonstrate immunity from enforcement action rests with an appellant. While a witness for the respondent expressed a view as to when the material change of use alleged in the notice occurred, that was never a matter for the respondent to demonstrate. It was for the applicant to demonstrate, on the balance of probabilities, that it had occurred sufficiently long ago to be immune from enforcement action.

9. The inaccuracy in the addresses where copies of the notice were served is that Apartment 12a was referred to as Apartment 13. I found in the Main Decision that this caused the occupier no injustice. Similarly, no injustice arose from the fact that a copy was not served on the appellant, given that it was able to make a valid appeal on time. Even if I were to view those errors as unreasonable behaviour, the applicant has not presented any evidence that it incurred unnecessary or wasted expense in the appeal process as a result.

10. As noted in the Main Decision, I was given different accounts of the notice period that occupiers are entitled to, but the licences produced by the applicant all confirm it is one week. The 3-month compliance period set out in the notice is generous in comparison and I note that the respondent indicated that it would agree to a longer period in a proof of evidence. I find no fault in the respondent's conduct in this matter.

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mark Harbottle

INSPECTOR