
Costs Decision

Inquiry held on 23 June 2026 and 25 June 2026 (virtual session)

Site visit made on 23 June 2026

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2026

Costs application in relation to Appeal Ref: APP/X1925/C/26/3378008 First and second floor and part of the ground floor of The George at Baldock, 2 Hitchin Street, Baldock, Hertfordshire SG7 6AE

- 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 Mr Hamid Sabahipour for a full award of costs against North Hertfordshire District Council.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the land to self-contained residential flats.
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Decision

1. The application for a full 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.
3. The word “unreasonable” is used in its ordinary meaning as established by the courts¹. In the context of an application for an award of costs, unreasonable behaviour may be either procedural – relating to the process, or substantive – relating to the issues arising from the merits of the appeal.
4. The applicant contends that there are six grounds of unreasonable behaviour by the Council. The first of these is that the Council insisted on a public inquiry despite there only being one narrow area of dispute. However, whilst the Council did request an inquiry, the choice of procedure was a matter for the Planning Inspectorate who ultimately make the final decision and, in this case, found that it met the criteria for an inquiry.
5. Secondly, the applicant argues that the Council acted unreasonably by re-opening an enforcement investigation without new evidence. The Council initially investigated the alleged unauthorised use of the property in 2022², with written confirmation that the investigation was closed being provided in March 2024. The Council argue that a further investigation was carried out in January 2025 following a further report concerning the use of the property as self-contained flats.

¹ Manchester City Council v SSE & Mercury Communications Limited [1988] JPL 774

² Council Ref: 22/00037/1ENF

6. Put simply, there is nothing inherently unreasonable about the Council opening a second investigation into an alleged breach of planning control at the property, even where the alleged breach is the same. For example, during the intervening period the use of the property may have changed or, as was the case here, more evidence or information may have become available to the Council. Furthermore, the enforcement notice adequately sets out the alleged breach of planning control and the reasons why the notice was issued.
7. Similarly, the applicant also considers that the Council acted unreasonably by failing to determine the re-opened enforcement investigation within a reasonable period, citing that the investigation had extended over twelve months. It should first be noted that, outside of the time limits for taking enforcement action as set out in section 171B of the Town and Country Planning Act 1990, there are no statutory time limits with regard to enforcement investigations.
8. In any event, as is evident from the appeal decision, one of the primary reasons that it took the Council around a year to conclude their investigation can be attributed to the applicant's failure to respond frankly and fully to the Planning Contravention Notice (PCN) that was issued in January 2025. If the applicant had informed the Council that occupants had been staying at the premises for several months, and in some cases years, and had provided the tenancy agreements which were expressly requested in the PCN, then I find it almost certain that the Council would have concluded their investigation and taken formal enforcement action much sooner.
9. The applicant also considers that the Council shifted the burden of determination onto the applicant, by suggesting that he applied for a Lawful Development Certificate (LDC). I struggle to understand though how the Council suggesting that the applicant applied for a LDC could be considered unreasonable or has resulted in wasted expense being incurred. Such a course of action is a perfectly reasonable suggestion to make to a prospective applicant/appellant who considers that a use was lawful. Given that a LDC application was not forthcoming, the Council subsequently proceeded with formal enforcement action. In both the submission of a LDC application, or in an appeal against an enforcement notice on one or more of the legal grounds, the burden of proof is on the applicant/appellant.
10. In relation to the applicant's contention that the Council maintained contradictory positions on the lawful use of the property, I also find this claim to be misplaced. The applicant refers to works being carried out at the ground floor of the premises which were permitted under planning permission ref: 24/00181/FP, and states that having encouraged these works to be completed the Council then concluded that none of the rooms could be used in the manner the appellant had been using them.
11. Planning permission 24/00181/FP was granted, amongst other things, for the conversion of part of the ground floor into four hotel rooms (Use Class C1). Whilst it may be the case that a Council Officer requested that the works were completed so that a determination into their lawfulness could be made, it is the applicant's responsibility to ensure that those works were in accordance with the planning permission. Given that the self-contained residential units on the ground floor were not appealed despite being attacked by the enforcement notice, the applicant clearly accepts that they are without planning permission. The fact that they could not be used "*in the manner the appellant has been using them*" is a moot point and is certainly not indicative of unreasonable behaviour by the Council.

12. Finally, the applicant states that the Council failed to engage with a reasonable alternative to enforcement. It is argued that the Council failed to agree conditions on a “sui generis” use that would have regularised the position. On the contrary, I find there is no evidence whatsoever of the Council failing to engage. The Council contacted the applicant on various occasions, the PCN issued in January 2025 also offered the applicant the opportunity to attend the Council Offices in person to discuss the matter further, and the Council also afforded the applicant the opportunity to apply for a LDC.
13. None of the above represents a failure to engage by the Council. It is clear from the enforcement notice that the Council concluded, in its view, that the development was inappropriate in planning terms and could not be supported. Consequently, the Council was perfectly entitled to commence formal enforcement action as opposed to entertaining a planning application to regularise the unauthorised use. Furthermore, the taking of such action did not preclude the applicant from seeking planning permission to retain the development should he have so wished, by appealing the notice under ground (a).

Conclusion

14. Therefore, for the reasons set out above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Jones

INSPECTOR