

Costs Decision

Site visit made on 10 January 2017

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Decision date: 16 January 2017

Costs application in relation to Appeal Ref: APP/Z4310/X/16/3150005

Annexe at rear of 16 Greenfield Road, Liverpool L13 3BN

- 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 Paschal McCrumlish for an award of costs against Liverpool City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for HMO within Use Class 4 of the Use Classes Order.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The evidence submitted in support of the appeal, in particular factual evidence on occupation of the annexe set out in statutory declarations by the Appellant, his wife and his father, is inconclusive and it is, in fact, the lack of evidence on other matters, such as the payment of Council Tax and for utility services, that justifies withholding a certificate. In these circumstances it was not unreasonable for the Council to reach the view that there is insufficient precise and unambiguous evidence to justify a conclusion that the annexe has been in independent residential use. The Council has not acted unreasonably and the Appellant has not thus incurred unnecessary expense. The claim for costs fails.

John Braithwaite

Inspector
