



Costs Decisions

Site visit made on 27 January 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Costs application A in relation to Appeal A Ref:

APP/M5450/X/23/3316617

147 Eastcote Lane, South Harrow, Harrow HA2 8RR

- 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 Mr Qasim Gulamhusein (Marlpark 71 HA4 LIMITED) for a full award of costs against the Council of the London Borough of Harrow.
- The appeal was against the refusal of a certificate of lawful use or development (LDC) for proposed new outbuilding comprising garage, gym and home office.

Costs application B in relation to Appeal B Ref:

APP/M5450/W/23/3318356

147 Eastcote Lane, South Harrow, Harrow HA2 8RR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Qasim Gulamhusein (HA4 LIMITED) for a full award of costs against the Council of the London Borough of Harrow.
- The appeal was against the refusal of planning permission for demolition of existing house and erection of 3 storey block of flats.

Costs application C in relation to Appeal C Ref:

APP/M5450/W/23/3331336

147 Eastcote Lane, South Harrow, Harrow HA2 8RR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Qasim Gulamhusein (Marlpark 71HA4 Ltd) for a full award of costs against the Council of the London Borough of Harrow.
- The appeal was against the refusal of planning permission for a single storey side extension.

Decisions

1. Application A for an award of costs is refused.
2. Application B for an award of costs is refused.
3. Application C for an award of costs is refused.

Procedural Matter

4. The Planning Practice Guidance 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. However, parties to planning appeals are normally expected to meet their own costs.

Application A

Reasons

5. Essentially the applicant is claiming that the Council was unreasonable (and inconsistent) in coming to a finding, as a matter of fact and degree, that the proposed outbuilding subject to the appeal was “excessively large and more than what is genuinely and reasonably required for purposes incidental to the enjoyment of the dwellinghouse”¹ in determining whether or not the development was lawful by reason of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.
6. However, that was a judgement which the Council was entitled to make and there is nothing in the Officer Report (or anywhere else that I can see) that persuades me that it went about making that judgement in an improper or unreasonable manner. In my Decision on the appeal, I came to a different view but that does mean that the Council was unreasonable in its approach to the issue. I also had the benefit of information in the applicant’s appeal statement. Further, while both parties referenced other cases relating to developments proposed under Class E which supported their own positions (also used by the applicant to point out alleged inconsistencies in the Council’s general approach to such applications), ultimately this was a judgement based on the particular circumstances of the case before me and the Council did that by properly having regard to the information it had and relevant case law².
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Application B

Reasons

8. The applicant claims that the Council has acted unreasonably in not substantiating its reasons for refusal and has prevented or delayed development which should clearly be permitted by policy. Clearly, I disagree with the thrust of that argument as I have found, like the Council (and notwithstanding The Matrix building and apparent officer support for a flatted development at 143-145 Eastcote Lane), significant policy conflict as regards the particular merits of the appeal proposal at its particular location.
9. As regards the ‘grass verge’ issue, given what has been said by Inspectors in the past about the importance of that space as regards local character and appearance (whatever one chooses to call it)³, it is not unreasonable for the Council to have taken a similar view. However, since the appeal has been made there has been a different approach taken by the Inspectorate in respect to it⁴.

¹ Reason for Refusal – Decision Notice – P/3740/22

² Such as *Emin v SSE & Mid Sussex DC* [1989]

³ “...when taken together with the existing verge, cycleway and pavement, it creates an important open area between Alexandra Avenue and the existing dwelling on the appeal site. As this is devoid of any buildings it results in a strong sense of spaciousness at this prominent location at the junction of Eastcote Lane and Alexandra Avenue. This feature is an important positive attribute of the character and appearance of the locality and complements the open character of Alexandra Avenue”. PP/M5450/W/22/3307397 – erection of a semi-detached house to No 147 Eastcote Lane and alterations to existing dwelling.

⁴ APP/M5450/W/24/3341507

10. Further, given the concerns of the Council's tree officer - including as regards the proposed proximity of the significantly-scaled flatted development on the plot adjacent to the large and spreading London Planes on Alexandra Avenue – it was not unreasonable for the Council to have required more information (that was forthcoming in the appeal) at the application stage.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Application C

Reasons

12. Essentially, the applicant claims that the Council has acted unreasonably in not substantiating its reasons for refusal and has prevented or delayed development which should clearly be permitted by policy. The crux of that position is a criticism of the weight applied, in refusing the planning application, to the significance of what it called the 'green verge'.
13. However, as set out in my reasoning on Costs Application B above, given what has been said by Inspectors in the past about the importance of that space as regards local character and appearance (whatever one chooses to call it), it is not unreasonable for the Council to have taken a similar view. However, since the appeal has been made there has been a different approach taken by the Inspectorate in respect to it – and, in allowing Appeal C and granting planning permission for the development, I have had the benefit of that material consideration which was not available to the Council when it made its decision on the application.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Walker

INSPECTOR