



Costs Decision

Site visit made on 7 April 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 May 2025

Costs application in relation to Appeal B Ref: APP/Q5300/W/24/3357427

38 Capel Road, Enfield EN1 4SP

- 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 Hemlock Properties for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of outline planning permission for development described as the 'creation of new dwelling with private amenities, bin storage and bicycle storage'.
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Decision

1. The application for an 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. Unreasonable behaviour on the part of a Council may include failure to produce evidence to substantiate each reason for refusal, preventing or delaying development which should clearly be permitted; not determining cases in a consistent manner or vague, generalised or inaccurate assertions about a proposal's impact and not following well-established case law.
4. The costs application is made on the basis that the Council has acted unreasonably in refusing planning permission. The applicant suggests that the Council (1) failed to take into account an approved design at 80 Brimsdown Avenue, resulting in inconsistent decision-making, (2) failed to engage constructively at pre application stage or during the application process, and (3) failed to substantiate its refusal as it did not issue or publish a delegated report and consultee comments. The applicant suggests that these matters resulted in an appeal which could have been avoided.
5. In relation to (1), my main decision specifies that the circumstances of that decision were materially different to the appeal proposal and the decision maker is perfectly entitled to reach a different view on this basis.
6. In relation to (2), refusing planning permission and not discussing the particular reasons with the applicant in advance does not on its own constitute unreasonable behaviour provided the reasons for doing so have been substantiated. Furthermore, costs can only be awarded in relation to unnecessary or wasted expense at the appeal. Therefore, even if the Council failed to engage more

positively during the pre-application stage or at the time of planning application, this does not automatically justify an award of costs.

7. The Council's reason for refusal set out in its decision notice is complete, precise, specific and relevant to the planning application. In relation to (3), I am not aware of precisely how long these documents remained unavailable and the Council have not provided any comments in this regard. Even so, the appellant had a copy of the decision and the applicant was subsequently given opportunity to comment on other documents including the delegated report, which further substantiated the Council's reasons, during the appeal process.
8. Overall, in relation to (1), (2) and (3) I have arrived at partly the same conclusion as the Council, and I have dismissed the appeal for reasons relating to the effect of the proposed development on the character and appearance of the area. As a consequence, different behaviours or actions by the Council would not have avoided the appeal.

Conclusion

9. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted. Consequently, the application for an award of costs is refused.

H Marriott

INSPECTOR