



Costs Decision

Site visit made on 6 May 2025

by **Sarah Colebourne MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2025

Costs application in relation to Appeal Ref: APP/F5540/D/25/3361352 59 St Mary's Grove, Chiswick, London, W4 3LW

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Laura Geraghty for a partial award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of planning permission for a rear roof extension to the house.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

Reasons

2. 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 PPG also advises that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal and make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant claims that the Council's lack of engagement in regard to the impact of the proposal on the neighbours' sunlight and daylight during the application process amounted to unreasonable behaviour. Costs are not sought costs in relation to the Sunlight/Daylight Report consultant costs incurred in the appeal process as those would have been incurred during the application process had the local authority asked for that. Rather, costs are sought in relation to additional planning consultant fees in regard to that matter.
5. In considering the effect of the proposal on the living conditions of the neighbouring occupiers, the planning officer's report used the words '*may*' and '*could*' and concluded that '*Further evidence of this, in regards to a sunlight/daylight report will need to be provided to make a conclusive assessment on the impact the proposal will have on the neighbour's daylight/sunlight*'. That evidence was not sought during the application process despite several requests from the applicant's agent for further discussion. The Council's reasoning was vague and its view unsupported by objective analysis. I find that this amounts to unreasonable behaviour that resulted in additional planning consultant costs at the appeal stage.
6. The applicant also contends that the Council failed to take into account the fallback position of permitted development at the site. Whilst it said that '*with appropriate*

amendments a lawful certificate could be a more appropriate application for this development', the planning officer's report did not make any further reference to that fallback position despite clear evidence from the submitted emails that it had been raised in correspondence dated 21/11/24 from the applicant's agent. My decision explains why I gave the fallback position significant weight and my decision turned on this matter. Although the Certificate of Lawful Use or Development was granted after the appeal proposal decision and the Council may not have given the fallback position the same weight, it should have been taken into account as a material consideration at the very least during the application stage. This also amounts to unreasonable behaviour, incurring additional planning consultant fees during the course of the appeal.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Hounslow shall pay to Ms Laura Geraghty, the costs of the appeal proceedings described in the heading of this decision (limited to those costs incurred as referred to above under **Reasons**); such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to the London Borough of Hounslow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Sarah Colebourne

INSPECTOR