
Costs Decision

Site visit made on 25 June 2025

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2025

Costs application in relation to Appeal Ref: APP/Q5300/W/25/3362861
70 Kings Road, Edmonton, London N18 2PN

- 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 Mr Damen for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the erection of a single-storey side infill extension (granted 22/02170/FUL) together with an L-shaped dormer extension and front rooflights (granted 24/02201/CEA) to facilitate the change of use of the existing dwelling to a small HMO (Use Class C4) for up to 5 people, with associated cycle, refuse and recycling storage.
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Decision

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

Reasons

2. 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. An award of costs against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The proposal followed an earlier House in Multiple occupation (HMO) scheme for up to 5 people at the appeal property. From the limited details provided of the approved HMO scheme, the proposal differed mainly in relation to the communal kitchen and dining facilities with a smaller room provided on the ground floor and an extra room in the loft space. Given these differences, the Council was not necessarily bound by its previous decision because the schemes were not 'like for like'. It was entitled to assess the development afresh. Having done so, planning permission was withheld for reasons given in the Officer's report. While the applicant disagrees with the Council's concerns, as do I, it was entitled to reach a different conclusion than it did in relation to the previous approved HMO scheme.
4. In finding that the proposal would not meet some minimum space standards, the Council misapplied part of Policy D6 of The London Plan and the National Described Space Standards, both of which relate to self-contained residential accommodation. The Council mistakenly referred to the space standards for a 5-bedroom 6 persons HMO although the proposal sought planning permission for up to 5 occupiers. It is also unclear from which document the minimum space standard of 18sqm for a kitchen, dining and living room was drawn.

5. These errors could not reasonably be described as minor or inconsequential. They amount to unreasonable behaviour. The question then arises whether unnecessary or wasted expense was incurred in the appeal process as a result.
6. In its assessment of the proposal, the Council was critical of the quality and useability of the accommodation and shared facilities within the HMO. Reference was made to relevant development plan policies that require, amongst other things, development provide well designed, flexible and functional layouts. Given these concerns, which include qualitative factors, it seems to me that the Council's decision did not turn on its misinterpretation of the minimum space standards.
7. The Council regarded the floor to ceiling (FtC) height in Bedroom 5 to be unduly restrictive. In doing so, it considered that less than one half of the habitable floor area within the room would achieve a FtC height of 2.3 metres. While the applicant disagrees with this stance, the Council was not necessarily incorrect given that their concern related to the habitable part of the room, which would have involved an element of judgement, and not its total floor area.
8. Reference was made to the Council's decision to approve a 6-person HMO at Lombard Avenue with smaller communal areas to serve 1 more resident than the proposal. While the applicant considers that the Council was inconsistent in reaching a different conclusion in this case, in my experience it is rare that developments are directly comparable largely because local circumstances often differ. Furthermore, assessing matters such as the living conditions of occupiers is partly subjective. It is inevitable that opinion will vary. Given the differences in layout and occupancy level between the proposal and the Lombard Avenue development, it follows that the Council was entitled to reach a different conclusion having assessed each development on its own merits.
9. Even if the Council's objections in relation to minimum space standards were set to one side, it found the proposal unacceptable and in conflict with several relevant development plan policies. The Officer's report explains those concerns. When read as a whole, the Council's evidence provides a respectable basis for its stance.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and therefore an award of costs is not justified.

Gary Deane

INSPECTOR