Planning Inspectorate

# Costs Decision

Site visit made on 15 July 2025

**by Stephen Hawkins MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 August 2025**

**Costs application in relation to Appeal Ref: APP/N5090/X/23/3331104**
**7 Hayward Road, London N20 0HA**

- 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 Nikunj Modha for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of the Council to grant a Lawful Development Certificate for an outbuilding for use incidental to the enjoyment of the existing dwelling.

## Decision

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

## Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) chapter on appeals advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030).

3. At paragraph 031, the PPG advises that 'unreasonable' has its ordinary meaning, as established by the Courts[1] and that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.

4. The applicant sought a full award of their costs incurred in making the appeal, on substantive grounds. The application was made in writing in accordance with the PPG at paragraph 035. In summary, the applicant's case is that the Council have ignored evidence which clearly demonstrates the proposed outbuilding is required for a purpose incidental to the enjoyment of the dwelling.

5. Paragraph 049 of the PPG advises that a Council is at risk of an award of costs where they behave unreasonably with respect to the substance of the matter under appeal, by unreasonably refusing or failing to determine applications or by unreasonably defending appeals. The non-exhaustive list of examples where such circumstances might arise include preventing or delaying development which should clearly be permitted, failing to produce evidence to substantiate reasons for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and not reviewing the case promptly following the lodging of an appeal, as part of sensible on-going case management.

[1] *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774.

6. The reasoning behind the Council's decision to refuse the application was set out in the Officer delegated report and amplified in the written statement submitted in response to the appeal. These documents clearly explain, in a detailed and objective manner, why the Council considered that an LDC should not be granted. They show that the Council made a reasoned judgment based on its interpretation of the facts and circumstances of the proposal assessed against planning law. This included an examination of established case law as it relates to the proposal.

7. The Council also supplied a number of recent appeal decisions concerning similar schemes which it considered supported the decision not to grant an LDC for the proposal. Ultimately, I reached similar conclusions to those of the Council on the basis of the available evidence. There is little in this or the foregoing to suggest that the Council have ignored supporting evidence supplied with the application or at the appeal stage.

8. Therefore, I am not persuaded that the Council have acted in a manner similar to any of the examples of unreasonable behaviour relating to the substance of the case in the PPG at paragraph 049 referred to above, or to any other of the examples referred to in that paragraph, or that they have otherwise acted unreasonably. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

**Conclusion**

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Stephen Hawkins*

INSPECTOR