Planning Inspectorate

Costs Decision

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2025

Combined costs application in relation to Appeal A Ref: APP/R5510/C/23/3326872 and Appeal B Ref: APP/R5510/C/23/3326873
980 Uxbridge Road, Hayes, Middlesex UB4 0RL

- The application is made under the Town and Country Planning Act 1990 ("the 1990 Act"), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Sunil Kanda (Appeal A) and Ms Shakuntla Rani Kanda (Appeal B) for a full award of costs against the Council of the London Borough of Hillingdon.
- The appeals were against an enforcement notice alleging the material change of use of a single storey rear extension to independent residential accommodation ("the notice").

Appeals A and B – Decision

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

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. The Council decided that enforcement action could be taken following receipt of an email from its Counter Fraud Team (CFT), which stated the change of use had occurred on 1 October 2022 but did not identify the evidence for that. In a later email, CFT advised that the owner had been "very vague about the start of use as residential" and that there had been "a shower room etc" in the extension in 2015 but residential use had been denied then. It was also stated the owner claimed to have used it "as domestic for a few years but says tenant moved in 2022."

4. It was not unreasonable for the Council to consider CFT a reliable source, although the information summarised above is limited and recounts what appear to be contradictory statements. However, the report recommending the issue of the notice records that the owner later told an officer the use had begun in early 2022. The report also confirms that the Valuation Office had placed the premises, described as an annexe, in band B for Council Tax with effect from 1 October 2022.

5. The evidence gathered directly points to something changing in 2022, consistent with the original advice from CFT. Accordingly, it was not unreasonable, on the evidence then available, for the Council to consider that the change of use had occurred within the preceding 4 years and was thus liable to enforcement action.

6. The appellants sent tenancy agreements and other documents to the Council before the notice came into effect and asked it to reconsider and withdraw the notice. The Council's response did not explain why the evidence was not found sufficient to do so. It did, however, offer a stay of action if an application for a

certificate of lawful existing use or development (LDC) were received, and suggested that the notice might be withdrawn if an LDC were issued.

7. As the notice was due to come into effect within days, the option of applying for an LDC was not attractive. That is because section 191(2)(b) of the 1990 Act indicates that a use cannot be certified as lawful if it contravenes any requirement of a notice then in force. This left the appellants with little option but to pursue their appeal.

8. The Planning Practice Guidance (PPG) indicates that a party's failure to review its case promptly may amount to unreasonable behaviour in an appeal.[1] The appellants' evidence includes tenancy agreements covering some 8 years without significant interruption and letters from the tenants in question. I found it sufficiently precise and unambiguous to demonstrate immunity from enforcement action. The Council's case to the contrary does not engage with the evidence concerning the tenancies and relies upon the absence of other records from before 2022 but that does not, of itself, make the appellants' version of events less than probable.

9. If the Council had considered the evidence about the tenancies more closely, it might have decided to withdraw the enforcement notice before it came into effect. That would not have prevented resumption of enforcement action if deemed necessary, but it would have given the appellants reason to follow the suggested option of applying for an LDC. The appeals could therefore have been averted.

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

11. 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 Hillingdon shall pay to Mr Sunil Kanda and Ms Shakuntla Rani Kanda, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicants are now invited to submit to the Council of the London Borough of Hillingdon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Harbottle

INSPECTOR

[1] Paragraph: 049 Reference ID: 16-049-20140306.