
Costs Decision

Site visit made on 5 August 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Costs application in relation to Appeal Ref: APP/P4605/W/25/3366060

Jamia Masjid Haroonia, 766 Alum Rock Road, Birmingham B8 3PX

- 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 Cornerstone for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of prior approval for 'Installation of mast, antennas, dishes, cabinetry and all ancillary development.'
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals normally meet their own expenses. However, it goes on to state 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. Moreover, although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
3. Unreasonable behaviour in this context can be taken to be either procedural, relating to the process; or substantive, relating to the issues arising from the merits of the appeal. In this case, the allegations from the applicant are based on both substantive and procedural grounds.
4. Paragraphs 047 and 049 of the Planning Practice Guidance offer some examples of unreasonable behaviour by local planning authorities, albeit neither list is exhaustive. For the purposes of this application, this includes on procedural grounds: providing information that is shown to be manifestly inaccurate or untrue; and on substantive grounds: vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. I would also add that given the lack of an appeal statement; the Council has failed to produce evidence to substantiate each reason for refusal on appeal.
5. On procedural grounds, there was clear dispute between the parties as to the height of the mast applied for. While the applicant provided evidence that the mast was indeed 20 metres (m) high, the Council assessed the proposal on the basis of a 25m structure. This was clear in its delegated report and the apparent changing of the description of development which the applicant didn't agree to. It is unclear as to why this was approached in this manner. This was not only an important matter with regards to the height alone, but the taller mast also included more

antennae and is evidently a bulkier structure than the 20m mast. This to me shows that the Council has provided information at appeal that is manifestly untrue. There is nothing before me in the form of a response to the costs application to dispute this and as such I agree that the Council has behaved unreasonably procedurally.

6. On substantive grounds, the inaccurate information regarding the height of the mast also seemingly led to an assessment which was formed using the taller but bulkier structure. On the basis of the lack of evidence before me to the contrary, I must conclude that this led to inaccurate assertions about the proposal's impact. Moreover, I do not have an appeal statement of case or response to the applicant's costs evidence. This would further indicate that the Council has failed to produce evidence at appeal to defend its position.
7. The applicant has had to defend reasons for refusal at appeal which necessitated spending additional time and money consulting technical experts in order to substantiate these reasons to accompany the appeal. Accordingly, I find that the applicant has incurred unnecessary expense in the appeals process on this ground as a result of unreasonable behaviour. Therefore, a full award of costs is therefore warranted.

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 Birmingham City Council shall pay to Cornerstone, 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.
9. The applicant is now invited to submit to Birmingham City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C McDonagh

INSPECTOR