



Costs Decision

Site visit made on 20 August 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

Decision date: 08 September 2025

Costs application in relation to Appeal Ref: APP/Y5420/D/25/3365294 12 - 14 Clifton Gardens, N15 6AP

- 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 Moshe Lorincz for a full award of costs against the London Borough of Haringey Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of a basement extension with rear lightwells and a new staircase connecting the basement to the rear garden. Resubmission of the ground floor 6m rear extension to No. 12 following approval (Ref: HGY/2022/1138). Rear infill extension to the ground floor rear extension at No.14.
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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.

The application

3. The council's decision in this case was contradictory to its previous approvals for identical proposals. This breaches the principle established in *North Wiltshire DC v Secretary of State* (1993) 65 P&CR 137, and also National Planning Policy Framework (NPPF) paragraphs 38 and 47 with regard to the need for consistency in decision making.
4. There were also contradictory professional judgements given without explanation in relation to whether a condition would deal with the matter in contention.
5. This application is supported by the appeal decision reference APP/Y5420/D/24/3353478, in which a full award of costs was given, the Inspector stating that "I accept that such [ancillary] space would not be naturally lit or ventilated, but it would not be equivalent to a living room, kitchen or bedroom where occupants would be expected to spend the majority of their time".
6. The unreasonable refusal has necessitated an appeal, incurring unnecessary expense which justifies a full award of costs

Rebuttal

7. The council has followed a consistent approach, in accordance with its policy framework. All the examples cited by the appellant were treated in the same way,

but in 2 examples the condition that prohibits use as a habitable room should have been applied but was not. That does not demonstrate inconsistency.

8. There has been no inconsistency in professional judgement, just different conclusions where circumstance differ, so that decisions are taken on the individual merits of cases. In some cases, because of the nature of the accommodation proposed, the subject condition would not meet the standard tests because it would be unreasonable or unenforceable. The recent appeal decision cited (APP/Y5420/D/24/3353478) could not have been taken into account by the council since it was issued post the decision on the current appeal proposal. Therefore it cannot be given any weight in this costs claim.
9. The refusal was based on relevant policies, available appeal information, and consistent professional decision making. The application for an award of costs should be refused.

Final comment on the council's rebuttal

10. The fact that a condition 'should have been imposed but was not' demonstrates inconsistency. In the case of the application at 18 Clifton Gardens, the basement was explicitly labelled "playroom" and was approved without any restriction on use or any objection regarding the standard of accommodation. That demonstrates that the council's current assertion that a playroom inherently precludes the use of a prohibiting condition, contradicts that previous decision and shows inconsistency in decision making. As already stated, consistency is a material consideration. The failure to explain departure from precedent constitutes unreasonable behaviour.
11. The costs decision reference APP/Y5420/D/24/3353428 is cited because it supports the claim that the council's position does not accord with the Inspector's interpretation and is therefore unreasonable.
12. The refusal was rooted in speculative future use and not policy based; the matter could have been resolved by a condition; the appeal was therefore entirely avoidable and costs are directly attributable to the council's inconsistent and unsubstantiated decision.

Conclusion

13. Dealing first with the appeal decision reference APP/Y5420/D/24/3353428, I have little to go by other than a brief extract from what appears to be the Inspector's decision on the appeal, rather than the costs application. However, from the extract it is clear that the paragraph 15 extract is not related to this case, whilst the quotation from paragraph 19 simply accepts that the (ancillary) space would not be naturally lit, but that it would not be equivalent to a living room, kitchen, or bedroom.
14. This clearly distinguishes that appeal case from the present one. That Inspector accepted that it was not habitable accommodation that was proposed. This is the crux of the difference between the appellant and the council. The basement spaces in the present case are annotated "Playroom". To state the obvious, a playroom is one in which children play, often with adults present. With or without adults, the room would be occupied by people for potentially lengthy periods of time. A playroom is clearly a form of habitable accommodation.
15. On that basis, as can be seen from the officer's report and the refusal reason, the objection was to basements that would be used as playrooms, which equate to

habitable rooms. Unfortunately the officer's report for the most part does not have paragraph numbers. However, there is a heading numbered '2' reporting the 'Proposed Development'. Here it is noted that "this is a resubmission of a previously refused application for the same rear extension and basement, however in this instance the basement has been labelled as 'playroom' to show that the space will not be used as a habitable room". That is, as I understand it, the officer is stating the view of the applicant that a playroom is not a habitable room.

16. Later in the report, under the heading 'Standard and quality of residential accommodation, the officer makes clear that, "in this instance" a playroom is considered to be a habitable room. I would query why 'in this instance', but the fact is that the officer, and thereby the council, regards a playroom in that way. That, I have already made clear, is correct in almost every circumstance.
17. The appellant's appeal has not sought to establish a basis for the contention that a playroom is not habitable accommodation. Had that been done, it would have potentially set out a flaw in the council's case and the reason for refusal.
18. I would just add a point that is touched upon in the appeal documentation. As I have noted in the appeal decision, it seems to me that the condition that the appellant argues for would not be enforceable. This is because basements at the rear of the houses are not in the public gaze, and monitoring the use of such accommodation by the council is very unlikely to be feasible due, among other matters, to staff resources. That is to say nothing of the strange line of argument that basements intended to be used as playrooms should be fettered by a condition that prohibited their use as habitable accommodation.
19. The officer's report is perhaps not a model of clarity in every respect, but it has to be remembered that it was dealing with a substantial amount of proposed development, not just the basement element.
20. In light of the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Terrence Kemmann-Lane

INSPECTOR