



Costs Decisions

Site visit made on 19 June 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Costs application A in relation to Appeal Ref: APP/N5090/W/24/3357517

26 Renters Avenue, Hendon, London NW4 3RB

- 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 BY Developments for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of planning permission for the demolition of the existing dwelling and erection of a new two-storey building with basement level with associated lightwells and rooms in the roofspace to provide 4no. self-contained flats; associated amenity space, refuse/recycling storage, cycle storage and parking.

Cost application B in relation to Appeal B Ref: APP/N5090/W/24/3357509

26 Renters Avenue, Hendon, London NW4 3RB

- 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 BY Developments for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of planning permission for the demolition of the existing dwelling and erection of a new two-storey building with basement level with associated lightwells and rooms in the roofspace to provide 4no. self-contained flats; associated amenity space, refuse/recycling storage, cycle storage and parking.

Decision

1. Both applications for an award of costs are refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ("the 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. Paragraph 049 of the PPG gives examples of behaviour which may give rise to a substantive award of costs against a local planning authority, among them "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations", and "not determining similar cases in a consistent manner"¹. The applicant's claim in respect of both appeals falls squarely within these examples.
4. The applicant suggests that the Council acted unreasonably in refusing planning permission for the two appeal schemes, when in May 2024 it had granted planning permission for a scheme in which basement bedrooms would have similar daylight and outlook. The relevance of the May 2024 permission, which permitted a pair of

¹ Reference ID: 16-049-20140306

dwellings with living accommodation over four levels, is addressed in my main appeal decisions, but it is significant here that the two appeal schemes were proposals for four apartments. The Council's reasons for refusal related to two apartments in each scheme which would have considerable proportions of their living accommodation in basement rooms and which, it considered, would not have acceptable daylight or outlook.

5. While I accepted the evidence put forward by the applicant in respect of daylight (which had not been available to the Council at the time it determined the planning applications), I agreed with the Council's assessment in respect of outlook. The context of the appeal schemes differs from that of the May 2024 permission; in view of the likely way in which future occupiers would use the proposed flats (and their greater dependence on the basement, which would make up a much larger proportion of their living space and habitable rooms). Given these significant differences between the appeal schemes and the May 2024 permission, in my view the Council was quite entitled to reach a different conclusion in respect of proposals for four flats on the appeal site from that it had reached where two houses were proposed. It did not act unreasonably in this respect.
6. The appellant also suggests that the Council acted unreasonably as it "introduced new policies and reasons" into its refusal of the later Appeal B scheme. The only significant difference in respect of policies is that the decision notice for the Appeal B scheme referred to draft policies in the then-emerging (and now adopted) replacement local plan for the borough. Differences in wording between the two decision notices do not affect the substance of the matter at all. Again, the Council has not acted unreasonably in this respect.
7. Finally, in the light of my decision to dismiss both appeals, it follows that I cannot find that the Council prevented or delayed development which should clearly be permitted.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. and an award of costs is not warranted.

M Cryan

Inspector