



Costs Decision

Inquiry held on 8 & 21 July 2025

Site visit made on 9 July 2025

by **J M Tweddle BSc(Hons) MSc(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th September 2025

Costs application in relation to Appeal Ref: APP/U5360/C/23/3328462 193 Homerton High Street, London E9 6BB

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Hackney for a partial award of costs against Ms Turkan Akbas.
 - The inquiry was in connection with an appeal against an enforcement notice alleging without planning permission, the material change of use of the first, second and third floor of the property to 6 flats and the material change of use of part of the ground floor and basement of the property to one flat and associated operational development comprising of the installation of one window at ground floor level.
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Decision

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

The submissions for the Council of the London Borough of Hackney

2. The costs application was submitted in writing prior to the opening of the inquiry. I will not repeat the applicant's detailed submission here, instead it is summarised as follows.
3. The applicant seeks a partial award of costs for additional expense incurred in the preparation for the inquiry as a result of the appellant's unreasonable behaviour. The applicant claims that the appellant acted unreasonably in relation to procedural aspects of the appeal. In particular, how the appeal grounds have evolved; preparations for the appeal, including a failure to comply with deadlines; and failure to constructively cooperate with the Council.
4. In making the appeal, the applicant claims that the appellant did not clearly present their case in respect of which grounds of appeal were being pursued, and that minimal information was provided as to the appellant's case. The appellant was unable to confirm their witnesses for the inquiry, or who would be appearing to represent the appellant at the inquiry. This resulted in additional days being set aside for inquiry time that were not then necessary. The appellant also failed to provide proofs of evidence for their witnesses.
5. In addition, the applicant cites a lack of cooperation with the Council in the preparation of core documentation in the run up to the inquiry. A lack of communication over the preparation and agreement of a Statement of Common Ground (SoCG) is also raised. Therefore, the appellant's lack of constructed cooperation and engagement has constituted unreasonable behaviour that has resulted in the Council spending additional time preparing for the inquiry, thereby resulting in additional expense.

The response by Ms Tukan Akbas

6. The response was made in writing outside of the inquiry. The response is summarised as follows.
7. The appellant had appointed a professional agent to act on her behalf throughout the appeal. The conduct complained of was that of the appellant's agent, who acted independently and without the appellant's knowledge. The appellant states that the Council's application for costs misdirects itself in attributing failures to her personally. The appellant acted in good faith by appointing a professional agent and trusted them to handle the appeal. They were unaware of any of the issues and assumed everything was proceeding as expected.
8. A letter is provided from the appellant's agent to confirm that he was unwell due to a serious health condition and was signed off work from 12 May to 6 July 2025. Therefore, this impacted his ability to perform his professional duties. His absence meant that he was unable to properly inform or advise the appellant of the procedural requirements and deadlines, and that consequently she was not given the opportunity to prepare or make alternative arrangements in time for the inquiry.
9. Furthermore, the appellant is of the view that the actions of her agent should not be attributable to herself. Consequently, the appellant disputes that their behaviour has been unreasonable.

Reasons

10. 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.
11. Awards of costs can be either procedural, in regard to the behaviour in relation to completing the appeal process, or substantive, in relation to the merits of the appeal. In this case, the application for costs is made on procedural grounds.
12. In relation to procedural matters, appellants are required to behave reasonably in relation to procedural matters on the appeal, for example by complying with the requirements and deadlines of the appeals process. The PPG advises that appellants are at risk of an award of costs being made against them for various reasons, including: resistance to, or lack of co-operation with the other party in providing information or discussing the appeal; delays in providing information or other failures to adhere to deadlines; and, not completing a timely SoCG or not agreeing factual matters common to witnesses of both principal parties.
13. In this case the appeal form clearly shows that the appellant initially pursued the appeal in relation to ground (b) only. However, following a review of the initial submission it was clear that the appellant had also intended to pursue an appeal on ground (d). Therefore, this was considered to be a hidden ground of appeal, and so the parties were invited for further comments on this.
14. For enforcement appeals, due to the tight timescales involved, appellants are initially only required to set out their preliminary grounds of appeal and supporting facts. This is then supplemented by a detailed statement of case at the six-week stage. From a review of the LPA's statement of case, it appears that the LPA clearly understood the grounds of appeal and were able to comment on the

- grounds that had been pleaded. An appeal on ground (a) was never pursued. Therefore, the appellant did not act unreasonably in this regard.
15. The costs regime is aimed to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. This is to support an efficient and timely appeal process. It is therefore, of vital importance that the parties in an appeal adhere to the appeal timetable and meet any deadlines set by the appointed Inspector.
 16. I held a Case Management Conference (CMC) with the parties on 6 June 2025 to discuss the procedural arrangements for the forthcoming inquiry. Despite the appellant's agent being signed off work sick at this time, he attended the CMC to represent the appellant.
 17. At the CMC I set out clear expectations in relation to the documentation each party was required to provide to support the efficient running of the inquiry. Specific deadlines were set for the submission of documentation and the submission of information. A Post-CMC Note was issued to the parties to confirm what had been agreed. At no point did the appellant's agent advise that he was unwell or unable to meet the requirements set out at the CMC. In fact, he assured me that all deadlines would be met as agreed.
 18. Despite a Pre-CMC Note making it clear that the appellant's agent would need to come to the CMC with details of the witnesses that they intended to call to the inquiry and the details of their advocate, this information was not available. At the CMC, on behalf of the appellant, the agent agreed to providing these details no later than close of business on 6 June 2025. This deadline was not met. Despite further correspondence from the Inspectorate to request the details of who would be representing the appellant at the inquiry, these details were never provided until the appellant confirmed at the pre-inquiry site visit, the day before the inquiry was due to open, that she would be representing herself.
 19. Furthermore, the lack of uncertainty over the witnesses that would be called to support the appellant's case, and the appellant's failure to provide proofs of evidence for each witness, despite agreeing to a deadline of 10 June 2025, made it difficult to programme the inquiry and anticipate the expected number of sitting days that would be required. Furthermore, to assist with programming the inquiry, the appellant was asked to provide their final time estimates for their witnesses by 17 June 2025. They failed to meet this deadline.
 20. In the absence of this information, the inquiry was programmed for two days, with a day in reserve. However, in the end only one day was required for the presentation of all witnesses. Also, some of the appellant's intended witnesses failed to attend the inquiry. This lack of engagement and cooperation from the appellant hindered the ability of the LPA to prepare for the inquiry and resulted in additional costs for room hire. This could have easily been avoided had the appellant engaged with the appeal process in a more constructive and cooperative manner.
 21. The discussions at the CMC, and the following written note, made clear the expectation for the parties to work together in a cooperative manner in the run up to the inquiry. It was therefore reasonable for the LPA to expect the appellant to constructively engage with it to ensure that all inquiry documentation was properly

- compiled. There is little evidence from the appellant to suggest that they met this expectation.
22. Furthermore, the appellant failed to engage with the LPA over the drafting of a SoCG, with no acknowledgement or response to the LPA's email correspondence over this matter. While a SoCG was submitted, this was largely instigated and drafted by the LPA with very little, if any, input from the appellant or their agent.
 23. Overall, there was a lack of communication from the appellant's agent to both correspondence from the LPA and from the Inspectorate in the run up to the inquiry. Deadlines were missed, with no explanation. The appellant accepts that their agent *"failed to meet procedural deadlines, failed to provide evidence to the Inspector, and ultimately withdrew from the matter on the morning of the hearing"*.
 24. These procedural failings and lack of constructive engagement from the appellant's agent left the LPA with the sole administrative burden of preparing all the documentation for the inquiry and compiling an index of core documents. In effect, organising and cataloguing the appellant's evidence and appeal documentation for the inquiry, with no input from the appellant. This was unreasonable. It was the appellant's responsibility to ensure that their case and the supporting documentation and evidence was properly prepared for the forthcoming inquiry, instead this was unreasonably delegated to the LPA.
 25. I appreciate that the appellant's agent experienced a period of ill health in the run up to the inquiry. Nevertheless, the appellant's own evidence indicates that she was in contact with her agent prior to the opening of the inquiry and immediately following the CMC – at a time when the agent was said to be suffering ill health and unable to work.
 26. Furthermore, she had been provided with all of the relevant documentation and, based on her conduct at the event, she appeared to be well prepared for the inquiry. If, as claimed, the appellant had lost contact with her agent for whatever reason, it was her responsibility to intervene to ensure that her appeal was properly being progressed and that she was meeting all of the procedural requirements of the process.
 27. The appellant seeks to distance herself from the failings of her agent. Nevertheless, she appointed the agent to professionally represent her throughout the appeal process. It was incumbent upon her to ensure that he was acting in her best interests and was available to represent her effectively. Given the gravity of the appeal, as a quasi-judicial process, it was reasonable to expect that she would keep abreast of, and contribute to, the appeal proceedings. In this regard, she had a responsibility, as the appellant, to engage with the appeal process and ensure that her agent was properly instructed and was fulfilling the procedural obligations on her behalf.
 28. Should the conduct of her agent have fallen short of her expectations and, as I have found to be the case, resulted in unreasonable behaviour, that is a private matter between her and the agent to resolve. Ultimately, she appointed the agent to act on her behalf and so, for the purposes of the appeal process, his actions are attributable to her as the appellant.
 29. I cannot agree with the appellant's assertion that the LPA should have contacted her directly when her agent had become unresponsive. Indeed, the appellant was

copied in to some of the early appeal correspondence when her agent had failed to reply to requests for information. Therefore, she was aware of her agent's lack of communication and cooperation with the appeal process. In any case, it was not for the LPA to chase the appellant.

30. I acknowledge the appellant was unrepresented at the inquiry, and they may not have been familiar with the appeal process and inquiry procedures. Nevertheless, the fact remains that up to the day of the inquiry the appellant had appointed professional representation to manage the appeal on her behalf. However, the appointment of an agent to act on her behalf did not remove the obligations placed on the appellant, having made the appeal, to fully comply with the appeal process and to ensure that any actions carried out on her behalf were done so in a timely and reasonable manner.
31. For all these reasons, in relation to procedural matters, I have found that the appellant has failed to constructively co-operate with the LPA in the run up to the inquiry. They have failed meet deadlines and failed to provide information requested as part of the appeal process. This amounts to unreasonable behaviour.
32. As a result of this unreasonable behaviour, the LPA has incurred unnecessary costs preparing for and hosting the inquiry. Therefore, a partial award of costs is justified.

Conclusion

33. I have found that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. I therefore conclude that a partial award of costs, to recover the expense incurred by the LPA in relation to the additional preparation it undertook for the inquiry and the cost of the additional venue hire that was not required, is justified.

Costs Order

34. 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 Ms Turkan Akbas shall pay to the Council of the London Borough of Hackney, the cost of the of the appeal proceedings described in the heading of this decision, but limited to those costs incurred in relation to the additional preparation it undertook for the inquiry and the costs associated with the additional venue hire that was not required; such costs to be assessed in the Senior Courts Costs Office if not agreed.
35. The applicant is now invited to submit to Ms Turkan Akbas, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J M Tweddle

INSPECTOR