



Costs Decision

Site visit made on 23 September 2025

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2025

Costs application in relation to Appeal Ref: APP/N5660/W/25/3363768

69A Kings Avenue, Brixton Hill, Lambeth, SW4 8DX

- 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 Mr Jan Slominski for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of the Council to grant permission in principle for the redevelopment of 69A Kings Avenue, SW4 8DX, to provide one additional house to the side of the original house.
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Decision

1. The application for an award of costs is refused.

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. Both of these tests must be met to warrant an award of costs.
3. The full application for costs is made on three grounds. The first ground is that the Council refused the application based upon an incorrect factual assessment that the proposal constituted a conversion to flats and would result in the loss of a family sized dwelling, contrary to policy H6 of the Lambeth Local Plan 2021 (the LLP).
4. It is not entirely surprising that the Council raised concerns about the sub-division of the existing dwelling, given that its redevelopment is included in the description of development, the whole of the existing dwelling is included in the red line application boundary and supporting plans, and there are inconsistencies between the information provided on the forms and in the various supporting documents. The proposal clearly necessitates altering the existing dwelling to some extent, by partial demolition or conversion, and extension. As such, it was not unreasonable of the Council to consider the effect of the development on the existing family house as a material consideration.
5. The applicant states that the supporting information made it clear that the proposal would retain a family house, but also states such information is indicative and that the plans may differ at technical details consent stage. Furthermore, the householder extensions and alterations proposed to ensure the existing house retains its size, cannot be considered or secured by a permission in principle application.

6. The Council had no reason to query the approximate floorspace of the dwelling that had been provided by the applicant in their supporting submissions. However, as policy H6 of the LLP applies only to conversions of family sized dwellings to flats, and no such conversion was proposed, with the description of development seeking permission in principle for an additional house to the side of the existing one, the Council's second reason for refusal, and particularly its reference to policy H6, was unjustified.
7. The Council was therefore unreasonable in refusing to grant permission due to conflict with policy H6 of the LLP, which seeks specifically to protect dwellings suitable for occupation by families from conversion into flats. It was also unreasonable in pursuing a conflict with policy H6 as part of the appeal.
8. However, this behaviour did not directly cause the applicant to incur unnecessary or wasted expense in the appeal process as it was not the sole reason for refusal, and therefore, the applicant would still have been likely to appeal. It was also not necessary to undertake historical research or research into the local plan evidence base, to point out that policy H6 relates only to conversions to flats.
9. The second ground is that the Council's reason for refusal regarding overdevelopment was based upon an assessment of illustrative plans, which falls outside the scope of a permission in principle application.
10. The information submitted with the application demonstrated that to accommodate an additional dwelling on the site, it would be necessary to extend the existing property. Whilst the extensions may not necessarily take the form of those shown on the indicative drawings, given that the description of development is for a house to the side of the existing one, it was logical to assume that the illustrative drawings or something similar would be the only way to accommodate what was being proposed. The supporting information was not necessary, and the application could have simply been accompanied by a red line plan, excluding any part of the existing dwelling and its curtilage not intended to form part of the proposal for the new house. Instead, additional information was submitted voluntarily to support the application and to aid the decision maker in understanding how the site may be developed. It was a material consideration, and it would have been unreasonable behaviour had the Council totally disregarded it.
11. The Council went into more detail than necessary, and in assessing the proposal made assumptions about what the development may look like based upon the indicative floor plans and floor areas, which were not matters for consideration. Whilst this was unreasonable behaviour, I agree with the Council's overall conclusion that the combination of extensions required to facilitate a new house to the side of the existing one, would be significant and would constitute overdevelopment of the site.
12. The applicant states that large extensions are not required and that a single storey, one-person residential unit would not be significant. This would not however generally be described as a house, which is what was applied for.
13. My attention has been drawn to an appeal case in which a partial award of costs was warranted due to the Council concluding, based upon illustrative plans, that a development would not be of high-quality design and would not provide adequate internal space standards. I do not consider this to be comparable to the case before

me, which relates to the provision of a new dwelling resulting in the overdevelopment of the site.

14. Although the Council's overly detailed consideration of the indicative plans may have supported its initial reasoning, there is nothing before me to suggest that it was its consideration of the indicative plans alone that led to its conclusion that two houses would amount to overdevelopment of the site. The unreasonable behaviour would not have avoided a refusal or this appeal and has not directly resulted in unnecessary or wasted expense.
15. The third ground relates to procedural and administrative matters, which delayed the application process, and the failure of the Council to work with the applicant in a positive and proactive manner.
16. The minor errors and delays at the application stage would not amount to unreasonable behaviour resulting in unnecessary or wasted expense in relation to the appeal.
17. The email correspondence before me confirms that extensions of time were sought and the applicant was aware of their right to appeal non-determination but opted instead to give the Council more time. It is also evident that the Council responded to emails apologising for the delays and explaining the reasons for these.
18. In submitting a permission in principle application, the applicant was opting to submit minimal information, for faster consideration of limited matters, which regardless of the outcome would have provided no guarantee of technical details consent for an additional dwelling being agreed at a later stage. As such there was little to engage upon or discuss. It would be open to the applicant to enter pre-application discussions or to submit a full application should they wish to negotiate or explore the possibilities of redeveloping the site in further detail.
19. Whilst I agree that the Council has behaved unreasonably in respect of some matters, these matters alone have not resulted in the need for the appeal or any necessary expenses associated with it. I therefore conclude, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Bartlett

INSPECTOR