



Costs Decision

Site visit made on 16 September 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2025

Costs application in relation to Appeal Ref: APP/U5360/W/25/3368151 Flat 7, 28 Brooke Road, Hackney, London N16 7LS

- 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 J Gluck for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of rear roof extension above the existing two-storey outrigger (to serve flat 7).
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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.
3. The applicant seeks an award of costs for a number of reasons relating to: the time taken by the Council to determine the application, said to be some 15 months or so; that the appeal was avoidable if the Council were consistent in their decision-making, with 3 no. examples of decisions that are said to have had planning policy applied differently; because the proposed development is said to comply with the development plan; and due to the Council not substantiating its reasons for refusal, which the applicant says are vague, and not supported by its policies. In addition, the applicant says the Council has not positively engaged to try and resolve the issues it identified in its reasons for refusal.
4. The Council has not specifically responded to the costs claim, although it has commented on some of the arguments pertaining to the costs claim within its statement.
5. In my decision, I found the proposed development to be harmful to the character and appearance of the host property, the terrace it is part of, and the area, and to be harmful to living conditions for neighbouring occupiers.
6. The Council has not provided any reasonable explanation for the delay in making its decision on the application, which given the time it took to determine the application with no good reason, is unreasonable behaviour. The delay could have allowed time to explore whether there were any solutions to address its reasons for refusal. However, given the nature of the proposed development to build upwards,

and the position of the window on flat 6, I cannot be certain that this would have satisfactorily addressed both reasons for refusal.

7. In my decision I carefully considered the 3 no. examples raised by the applicant. However, I did not regard them to be sufficient justification to outweigh the identified harm in this case, as they were not entirely comparable, for various reasons, to the proposed development and the appeal site in question. The applicant's frustration is understood at the inconsistencies in how the Council has applied its policies to the proposed development and to other examples, including the 45-degree rule. Nevertheless, in terms of the proposed development, the Council had applied its policies reasonably. Although the Council has not shown a diagram of the 45-degree line being interrupted by the proposal, nor has the applicant provided any such information showing there would be no incursion. From my own assessment I found it likely that a 45-degree line from flat 6's window would be affected by the proposed development. Nevertheless, I did not regard it to be a decisive factor on its own when determining the harm to the living conditions for the occupiers of flat 6.
8. The Council has set out within its report and statement the harmful effects from the proposed development, I am content that sufficient justification for its decision has been provided and that it applied its development plan policies and supplementary planning document appropriately. Nor did I find its reasoning to be vague. Although how, and why it applied the 45-degree rule to some developments and not others could have been clearer, and a daylight/sunlight assessment could have been requested by the Council during its consideration or at validation stage. Nevertheless, I am not convinced that these would have addressed all the identified harms in this case.
9. As a result, although unreasonable behaviour by the Council has occurred in terms of the delay in making a decision on the application and by not using that time to try to engage with the applicant to find solutions to address the identified harm, given my findings I cannot be certain that all the harms identified in this case could have been satisfactorily addressed. Therefore, I am not convinced that the appeal could ultimately have been avoided, and nor could the costs associated with making it.
10. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Hunter

INSPECTOR