



Costs Decision

Inquiry held on 20 May 2025, 9-10 July 2025, and 17 July 2025 (virtual session)

Site visit made on 20 May 2025

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Costs application in relation to Appeal Ref: APP/T5150/C/25/3358460

67A Carlton Avenue East, Wembley HA9 8LZ

- 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 Mr Medhi Ali for a partial award of costs against the Council of the London Borough of Brent.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the erection of a House in Multiple Occupation (an HMO), including a basement on the land.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises¹ 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. Unreasonable behaviour can either be procedural² – relating to the process, or substantive³ – relating to uses arising from the merits of the appeal.
3. The applicant's case is made in relation to both grounds and can be summarised as follows:

Procedural

- a) Failing to attend or be represented at a site visit.
- b) A lack of co-operation in providing information – Core Documents.
- c) Providing information that is shown to be manifestly inaccurate or untrue.
- d) Deliberately concealing relevant evidence.
- e) Irrelevant material.
- f) Late introduction of grounds of appeal.
- g) Introduction of new evidence and missing deadlines

¹ PPG Paragraph: 030 Reference ID: 16-030-20140306

² PPG Paragraph: 047 Reference ID: 16-047-20140306

³ PPG Paragraph: 049 Reference ID: 16-049-20140306

Substantive

- a) Proceeding with an appeal that had no reasonable prospect of success
4. Dealing firstly with the applicant's case on procedural grounds, it is apparent that the Council attended the appeal property on 27 March 2025 and 2 April 2025 but were unable to gain access to the property. The purpose of the visits was to agree an existing floor plan.
 5. An email was sent to the Council at 13:02 on 27 March 2025 advising that the appellant would not be able to make the site visit that day at 16:00. It is clear therefore that the appellant attempted to notify the Council and avoid them making an unnecessary journey. A site visit was subsequently arranged for 16:00 on 2 April 2025. The appellant again failed to attend and a tenant who answered the door did not allow the Council access. The appellant advises that he instructed the tenant to allow access, and the fact that the tenant did not adhere to this request was beyond his control.
 6. Whilst I acknowledge the Council's frustration that they twice visited the property without being able to gain access, particularly given the absence of a ground (a) appeal, I am not persuaded that the provision of "as-built plans" would have been of great assistance to the inquiry or shortened proceedings. Accordingly, I do not consider that this resulted in the Council incurring unnecessary or wasted expense in the appeal process.
 7. The Council also argue that the appellant failed to produce a Core Documents List (CDL) ahead of the submission of the proofs of evidence, and when a CDL was produced on 16 May 2025 it contained new evidence that had not been agreed with the Council. It was not until 27 June 2025 that a final CDL was agreed. However, it is not uncommon for a CDL to be treated as a "work in progress" and it is for each party to determine which documents they wish to refer to in their respective cases. Although it may have been preferable for the final CDL to have been agreed earlier in proceedings, in my view this did not amount to unreasonable behaviour resulting in unnecessary or wasted expense.
 8. The Council contends that the appellant has provided manifestly inaccurate or untrue information, listing four documents (a-d) which were initially produced in relation to the appellant planning application in 2021. The appellant though has provided explanations as to how and when he came into possession of those documents, and there is no compelling evidence before me that proves that the appellant knew that any of these documents were manifestly inaccurate or untrue.
 9. Furthermore, the Council argue that the evidence of Mr Nur, Mr Mohamed, and Ms Swan was inaccurate or untrue. As set out in the appeal decision, I had concerns regarding the accuracy and reliability of the evidence of Mr Nur and Mr Mohamed. I found their evidence to be riddled with inaccuracies with significant errors in what should be simple information such as their current address and the length of time that they lived at the appeal property. I do not find it plausible that an error of four years could be made when recalling the period that Mr Nur resided at the property. In my view, the evidence provided in the statutory declarations and oral evidence of Mr Nur and Mr Mohamed was manifestly inaccurate to the extent that it amounts to unreasonable behaviour. This resulted in the Council spending time, and thus resources, in responding to their inaccurate and contradictory evidence.

10. A further claim is that the appellant deliberately concealed evidence, including bills, bank statements, and photographs. However, whilst the appellant may not have produced every piece of evidence that he had available to him, I cannot be certain that any additional evidence would have altered the course of the appeal or shortened its length. For example, it may have simply repeated or reiterated evidence that was already before the inquiry.
11. In terms of what the Council term “irrelevant material”, this relates to the appellant referring to planning merits in his proof of evidence despite there being no ground (a) appeal. Whilst it is true that the planning merits of the development were of no relevance to the appellant’s grounds of appeal, they formed only a small part of the appellant’s written submissions and did not unnecessarily take up any inquiry time.
12. Both parties were required to submit their respective statement of case by 21 February 2025. When submitting their statement on that date, the appellant sought to add grounds (a) and (b). The Planning Inspectorate (PINS) wrote to both parties on 24 February 2025 confirming that whilst the ground (a) appeal could not be added at that stage, the appeal would now also be proceeding on ground (b). PINS extended the statement due date until 3 March 2025 so the parties could add/cover the new ground (b) appeal. Although this will have resulted in the Council having to add to their statement of case to cover the new ground of appeal, given that the ground was added at a relatively early stage in the appeal process, as well as the additional time afforded to submit the statements, I do not consider that the appellant’s conduct amounts to unreasonable behaviour.
13. Shortly after the inquiry opened on 20 May 2025 the appellant’s barrister advised that a significant number of additional witnesses had attended and were waiting outside the inquiry room. It subsequently transpired that eight of these additional witnesses were called to give evidence. The inquiry was originally scheduled to sit for one day and given the potentially tight timeframe, timetable estimates were requested from the parties. The appellant’s agent provided their timetable on 14 May 2025, less than one week before the inquiry was due to open. The timetable set out that the appellant intended to call four witnesses, all of whom had already provided either a statutory declaration, witness statement, or proof of evidence.
14. Given the significant number of additional witnesses who intended to give evidence, it was clear straight away that one day would no longer be sufficient. The Council also raised concerns regarding the procedural fairness of the appellant calling several additional witnesses after the opening of the inquiry.
15. I acknowledge the appellant’s point that these persons could have still attended and given evidence as third parties, however most if not all of them were known to the appellant and were in fact seeking to give evidence on his behalf. I find it improbable that all the additional witnesses attended the inquiry on the morning of 20 May 2025 without the appellant’s prior knowledge. The failure of the appellant to notify either the Council or PINS of these additional witnesses led directly to the inquiry being adjourned and no progress being made on the first day of the inquiry, save for the site visit being carried out. To my mind, this amounts to unreasonable behaviour and led to the Council incurring unnecessary or wasted expense.
16. With regard to the substantive grounds, the Council considers that the appeal had no reasonable prospect of success. In respect of the legal grounds of appeal, I concluded that the appellant had discharged the burden of proof in respect of

ground (d). Although I did not come to the same conclusion in respect of ground (b), in my view the appellant put forward a reasonable case. The same though cannot be said for the ground (f) appeal.

17. Where there is no ground (a) appeal a ground (f) appeal cannot be pursued to result in a grant of deemed planning permission. Moreover, where the purpose of the Notice is to remedy the breach of planning control any lesser step that would not remedy the breach cannot be accepted through ground (f). Given that he was professionally represented, this should have been known to the appellant. As such, on the basis of the evidence put forward by the appellant, the ground (f) appeal had no reasonable prospect of succeeding. This amounts to unreasonable behaviour, and the applicant was put to unnecessary or wasted expense in that respect.
18. For the reasons set out above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in part. This relates to the late introduction of new witnesses and evidence on the opening day of the inquiry, the manifestly inaccurate evidence of Mr Nur and Mr Mohamed, and the ground (f) appeal which had no reasonable prospect of succeeding. Therefore, a partial award of costs is justified.

Costs Order

19. 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 Mr Medhi Ali shall pay to the Council of the London Borough of Brent, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the first inquiry sitting day held on 20 May 2025 (save for the carrying out of the site visit), the evidence of Mr Nur and Mr Mohamed, and the ground (f) appeal, such costs to be assessed in the Senior Courts Costs Office if not agreed.
20. The applicant is now invited to submit to Mr Medhi Ali, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

David Jones

INSPECTOR