



Costs Decision

Site visit made on 16 September 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 October 2025

Costs application in relation to Appeal Ref: APP/N5660/W/25/3366452

44 Lambert Road, Lambeth, London SW2 5BE

- 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 Goldjo 10 Ltd for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of planning permission for change of use of the premise from a small HMO (Use Class C4) to a large house in multiple occupation (HMO) with 11 rooms (sui generis), including the provision of refuse and cycling facilities.
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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's case for seeking an award of costs is grounded in substantive matters, specifically that the Council failed to assess the fallback position of use Class C4 as well as failing to consider appeal precedents and also procedural matters, with the Council failing to respond to a submitted draft unilateral undertaking and refused to meaningfully engage throughout the application process.

Engagement

4. Regarding engagement between the parties, email correspondence demonstrates that the Council did engage with the applicant. Whilst the applicant may not have agreed with the Council's response, I find that there is no evidence that the Council behaved unreasonably in this regard.

Similar cases

5. At paragraph 7.21 of the Officer Report, the Council did consider two other appeal decisions¹ that had been drawn to their attention by the appellant, clearly identifying differences between those schemes and the proposed scheme. As such, the other cases do not set a precedent by which the Council should have granted planning permission, nor that they have been inconsistent in their approach.

¹ Ref: APP/U5360/W/24/3352804 & APP/N5090/W/20/3261065

6. The applicant also considers that there was no consideration given to the outcome of an appeal at 41 Valley Road². However, from the information before me, reference to this appeal was only made by the appellant in the appeal statement. It is not clear at what point the appellant drew this to the attention of the Planning Officer. As such, I do not find that on this example, unreasonable behaviour has been demonstrated.

Failure to consider Unilateral Undertaking (UU)

7. The applicant submitted a UU on the 28 April 2025, several days prior to the determination of the application. The UU sought to deal with parking permits, car club and cycle club membership. However, the Officer Report does not make any reference to the UU and the application was refused, in part, due to the lack of an agreement to secure transportation measures. I consider that the lack of engagement with the UU constitutes unreasonable behaviour.
8. Had the Council engaged with the UU, the absence of an agreement may not have formed a reason for refusal. However, in any event, whether the application proceeded to appeal or not, the applicant would have been required to produce a legal agreement. Therefore, I do not find that the unreasonable behaviour in this instance has led the appellant to any material wasted or unnecessary expense as part of the appeal process.

Failure to assess fallback

9. I acknowledge the email communication between the parties in relation to a potential fallback position at the appeal property to Use Class C4 under Class L of the General Permitted Development Order (GPDO). However, the Officer Report itself, which is the basis for the decision, contained no assessment by the Council as to whether a fallback under Class L of the GPDO could be a material consideration. The only reference to fallback, at paragraph 7.21 of the Officer Report, was in the context of other appeal decisions submitted by the appellant. Given this, I am not entirely satisfied that the fallback position put forward by the appellant was given sufficient consideration in determining the application, and I find that this amounts to unreasonable behaviour.
10. However, notwithstanding this, from all of the submitted information, it is clear that there were fundamental disagreements on the principle of the development, and to my mind, this was a matter unlikely to be resolved during the application process and thus could only be dealt with at appeal. As the PPG advises that an application for costs will need to clearly demonstrate how any unreasonable behaviour has resulted in unnecessary or wasted expense in the appeal process, the existence of unreasonable behaviour in itself is not sufficient to justify an award of costs. The behaviour must also directly cause another party to incur unnecessary or wasted expense in the appeal process. As I consider the appeal process was unavoidable, the applicant has not incurred unnecessary or wasted expense in the appeal process.

² Ref: APP/N5660/W/24/3337243

Conclusion

11. In conclusion, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for an award of costs is refused.

T Bennett

INSPECTOR