



Costs Decision

Site visit made on 1 October 2025

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2025

Costs application in relation to Appeal Ref: APP/T5150/C/24/3341450

Land at Connaught House, 20 Acton Lane, London NW10 8TT

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Brent for a full award of costs against Basrah Development's Ltd.
 - The appeal was against an enforcement notice alleging without planning permission, the formation of a vehicular access, including the erection of a sliding metal gate.
 - All submissions were made in writing.
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DECISION

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

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 right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. In an enforcement appeal, the onus of proof on the legal grounds of appeal, including matters of fact, is on the appellant.
4. The enforcement notice read as a whole tells the person on whom it was served what they have done wrong and what they must do to remedy it. The notice clearly is directed solely at operational development, as confirmed through the description of the alleged breach of planning control (Schedule 2) and the requirements (Schedule 4). There is no reference at all to a change of use of part of the appeal site to a vehicular access and no reason why the appellant should come to such a conclusion.
5. The appellant's failure to address the alleged breach of planning control through their appeals on grounds (b) and (c) was unreasonable behaviour. Even based on the appellant's stated understanding, the appeal on ground (b) had no prospect of success because the existence of the vehicular access and gate was highlighted on the photographic evidence submitted by the appellant within their grounds of appeal document. The appellant failed to substantiate ground (c) with reasoned argument directed at the physical works identified by the notice.

6. The appellant's ground (d) appeal was based on the creation of a physical opening in the boundary fence. This approach is not supported by the description of the alleged breach of planning control and the requirements. The appellant would have known that works were carried out to form the vehicular access installation that existed on the site when the notice was issued and that the works were not substantially completed by the relevant date. The appellant's own evidence, provided by the sequence of images of the property frontage over time, demonstrates the point and the time periods involved. The notice specifically relates the formation of the vehicular access to the approximate position indicated on the plan attached to the notice. Step 2 clearly identifies the kerb to be on the boundary of the Land, not outside the Land on the outer edge of the highway. The appellant's claim the notice includes work outside the planning unit has no basis at all. The appeal on ground (d) had no prospect of success.
7. The reason for issuing the notice highlights the harm to the safety of pedestrians and other road users because of its location, siting and unsuitable access arrangements. Within this context and the stated conflict with the development plan and national policy, the ground (a) appeal was not substantiated and no expert technical evidence submitted. The means of access, including the need to manoeuvre around street furniture, is very different to the access arrangements at neighbouring properties and no reasonable comparison may be made. No planning conditions were proposed for consideration. Without detailed assessment there was no prospect of success on the ground (a) appeal.
8. The ground (f) appeal has succeeded to a limited extent in relation to Step 3. Consequently, an appeal on this ground was not unreasonable.
9. In summary, the appellant behaved unreasonably in making an appeal on grounds (b), (c), (d) and (a).
10. The Council engaged in the appeal process fulfilling the procedural requirements, presenting their case and responding to the grounds of appeal. A certain amount of this work would have been necessary had an appeal been made on ground (f) only. However, much of the expense incurred was unnecessary, particularly in respect of defending the appeal on grounds (b), (c), (d) and (a).

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the appeal, apart from the expense in relation to the appeal on ground (f). A partial award of costs is therefore warranted.

COSTS ORDER

12. 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 Basrah Development's Ltd. 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 grounds (a), (b), (c) and (d) and including the expense of making the costs application; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Basrah Development's Ltd., to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Diane Lewis

Inspector