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## Costs Decision

Site visit made on 27 October 2025

**by Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> November 2025

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### **Costs application by the Council in relation to Appeals Ref:**

**APP/Y5420/F/23/3333629**

**2 Bruce Grove, LONDON, N17 6RA, 3333630 3 Bruce Grove and 3333631 4 Bruce Grove.**

- The applications are made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
  - The application is made by the Council of the London Borough of Haringey for a full award of costs against Mr Kaleem Ahmed's own costs application.
  - The appeal was against a listed building enforcement notice alleging the installation to shopfront of a Grade II listed building and the erection of a front extension in a Grade II listed building's curtilage.
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### **Decision**

1. The application for a partial 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) 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. In this case the Council argue that the costs applications made by the appellant were in themselves unreasonable. With regard to the first two appeals (3333629 and 3333630) the Council argue there was no procedural unreasonableness as the notices were clearly not a nullity and the appellant, by claiming they were, is pursuing a matter through the costs process that should be dealt with through a separate legal process.
4. I am not entirely sure what the Council mean by this, but I assume it stems from a mistaken belief that the arguments concerning the nullity of the notices cannot be raised in the appeal process but should be a separate legal matter. Although the Act sets out the grounds on which a listed building enforcement notice can be appealed, it is always open to an appellant to provide an over-arching argument that the notice is a nullity. There is a long line of court cases beginning with *Miller Mead*<sup>1</sup> where this is made clear. Although these relate primarily to s174 enforcement appeals, the principle holds good for listed building enforcement as well. If it is reasonable for the appellant to raise nullity arguments as part of the appeal it is equally reasonable to argue in a costs claim these arguments were not dealt with properly and so led to wasted costs.

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<sup>1</sup> *Miller Mead v MHLG* [1963] 2 WLR 225

5. The Council make three further claims under substantive unreasonableness. These relate to the 4 year time limit, the excessive requirements argument and their failure to withdraw the listed building enforcement notice.
6. There seems to be some confusion as to the Council's approach to the question of reasonableness in these three issues. They seem to be suggesting these were matters that should have been dealt with during the appeal process and to raise them as costs issues as well is in itself unreasonable. This is not what the appellant is doing. Their costs claim is based on the fact that these three arguments, made during the appeal, were so obviously correct that to continue to defend the appeal in the face of them was unreasonable. The Council should have recognised the unassailable strength of the appellant's arguments and withdrawn the notice. That is a perfectly acceptable costs argument and in the case of the question of nullity I agreed with the appellant. It follows therefore that the argument concerning the unreasonable requirements was well made by the appellant and it was therefore reasonable to include this in his costs claim. Similarly, the argument that the notice should have been withdrawn was also reasonable, as it should have been. Failure to withdraw an obviously flawed notice is grounds for unreasonable behaviour and so to include that in a costs claim is not unreasonable.
7. However, the 4 year time limit is a different matter. In this the appellant was fundamentally mistaken. There is no time limit on listed building enforcement cases and to argue there was during the appeal was unreasonable, as a professionally represented appellant should have known that. Consequently, to include that in the appellant's costs claim was also unreasonable as it clearly had no chance of succeeding and merely wasted the Council's time in responding to it. On that basis a partial award of costs in favour of the Council is warranted.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Kaleem Ahmed shall pay to the Council of the London Borough of Haringey, the costs of the costs appeal proceedings described in the heading of this decision; limited to those costs in refuting the argument made in the appellant's costs claim that the Council were unreasonable in not accepting their listed building enforcement notice was out of time. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Kaleem Ahmed , to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Simon Hand*

INSPECTOR