
Costs Decisions

Inquiry held on 5 November 2025

Site visit made on 4 November 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th November 2025

Costs applications in relation to Appeal Ref: APP/Q5300/X/25/3368877

126 Barrowell Green, Southgate, Enfield, N21 3AX

- The applications are made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Costs Application A is made by Ms Manuela Maria Rodrigues-Mendes for a full award of costs against the Council of the London Borough of Enfield. Costs Application B is made by the London Borough of Enfield for a full award of costs against Ms Manuela Maria Rodrigues-Mendes.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for use of the property as two separate self-contained units falling within use class C3 of the use classes order.
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Decision – Costs Application A

1. The application for an award of costs is refused.

Decision – Costs Application B

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

Preliminary Matters

3. 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. The PPG states that an award of costs may be made on either procedural (i.e., relating to the appeal process) or substantive (i.e., relating to the issues arising from the merits of the appeal) grounds.

Costs Application A – the submissions of Ms Manuela Maria Rodrigues-Mendes

4. The applicant's claim for a full award of costs is on the basis that the Council has acted unreasonably causing unnecessary expense in the appeal process as follows:
 - 1) It did not ensure that a competent witness attended the inquiry. Neither the witness nor the case officer had ever visited the appeal property (until the day before the inquiry) and had '*zero personal knowledge*'.
 - 2) The planning case officer (who has now left the Council) did not answer email correspondence on 23 May, 2 June and 13 June 2025 about what it considers to be sufficient evidence and hence the appellant had to prepare a statement of case and proof in the absence of any response about such matters.

- 3)The local planning authority refused to complete a statement of common ground.
- 4)There were errors in paragraph 4.13 in the officer report referring to *'196 Barrowell Road'* and subsequent errors relating to the checking the electoral roll relative to the actual address of the appeal property.
- 5)The Council's enforcement letter dated 2 July 2019 *'explicitly found self-contained residential units at the property'* and this was not properly considered as part of the determination of the LDC application.
- 6)Two retrospective planning applications were made for two 2-bed flats at the appeal property in 2019 and the plans showed what was in existence at the time and this was not explicitly considered in the officer report.
- 7)The Council did not expressly say that it did not contradict the applicant's/appellant's version of events and the Council tax information related to the wrong address, i.e., 196 Barrowell Road. The officer report says on page 2-3 that there was no electoral register submitted in evidence and no utility records when it has now seen *'the electricity boxes'*.
- 8)Nowhere in the officer report does it say that the applicant's evidence was not *'clear or precise'* and in the Council's statement of case at paragraph 4.12 there is an admission of an *'absence of contrary evidence'*. Given this position, an LDC should have been issued and hence an appeal and its associated costs could have been avoided.
- 9)The officer report *'criticises the absence of Council tax subdivision as a reason for refusal'*. The LDC application was refused partly as it lacked something which was not essential.
- 10)The Council's proof of evidence refers in paragraphs 6.11-6.12 to the use possibly being C4 rather than C3 which cannot be the case as a C4 use requires 3-6 people only and 2 people occupy *'flat B'*.
- 11)The Council has never taken enforcement action following six years of inspections.
- 12)The officer report acknowledges that Mr Jerad and Mr Georgiev were registered at the property from 2018 and 2021 respectively but the case officer report marks *'no'* for electoral register evidence.
- 13)The Council deliberately mischaracterised the rental agreements as *'lodger agreements'* and did not carry out a site visit when the LDC application was determined.

Costs Application A – the response by the London Borough of Enfield

5. In response to the costs application and the numbering above, the Council commented orally and as follows at the Inquiry:
 - 1)The Council's witness was credible and it is unreasonable to say otherwise.
 - 2)The emails between the appellant's agent and the case officer post-date the LDC refusal notice. The appellant's response should have been simply to pursue an appeal and make submissions as part of that process. No unreasonable behaviour leading to wasted time and expense in the appeal process has been demonstrated.

- 3)The Council did engage in the statement of common ground process but did not want to prepare it in the form that the appellant's agent wanted it to be prepared.
- 4)There were some minor errors in the Council's officer report, but these were corrected as part of the appeal process. This did not result in wasted time and expense in the appeal process.
- 5)The letter did not find two self-contained residential units. In fact, it refers to an HMO upstairs.
- 6)The retrospective applications have not been disregarded and have been expressly drawn out by the Council's own appeal evidence.
- 7)&8)The Council has demonstrated as part of the appeal that there is evidence that contradicts the appellant's evidence. The officer report also states that the applicant's evidence is not sufficiently precise and unambiguous to justify the grant of the LDC.
- 9)The electoral roll information for the property does not say what the appellant thinks it says or wants it to say.
- 10)The evidence does not support the appellant's claim that there is a '*flat B*'. Paragraphs 6.11 and 6.12 of the Council's proof of evidence refer to the definition of a use class C3 dwellinghouse. As those that were claimed to be living upstairs were unrelated, then the claimed upstairs flat could not, by definition, be a use class C3 dwellinghouse. The proof of evidence does not focus on the upstairs being used as a use class C4 use.
- 11)This is noted, but it does not assist the appellant's case.
- 12)This is a matter that has been considered as part of the appeal process.
- 13)The Council did not mischaracterise the rental agreements.

Reasoning – Costs Application A

6. Given my findings in my LDC appeal decision, I do find that the Council has reasonably substantiated its position to refuse the LDC application. Its decision to refuse the LDC application was well founded. Overall, I do not disagree with the above responses provided by the Council to the appellant's application for costs.
7. In specific terms, I recognise that there were some errors in the Council's LDC application officer report, but these were corrected by the Council as part of the appeal process. I do not find that these corrections resulted in wasted time and expense in the appeal process.
8. The evidence does not indicate that the Council refused the LDC application because there was an absence of specified information such as Council tax records. This is not referenced in the LDC refusal notice and, moreover, I find that the reference in the Council's officer report to specified documents was essentially in the context that such documents may have assisted in terms of supporting the applicant's case.
9. As regards the electricity boxes, there is an absence of clear and precise evidence to demonstrate when these were installed. This is also applicable in terms of the external doorbells. While they were evident on my site visit, this post-dates the date

- of the LDC application. The evidence is not sufficiently clear in terms of specifically when they were installed or by whom. When questioned at the inquiry, the appellant could not provide me with precise answers about such matters and, in fact, many of her responses included *'I am not very good with dates'*.
10. The Council's witness was familiar with the LDC application from the outset. It is not the case that she had *'zero knowledge'*. The comment made that she was *'not a credible witness'* is not well founded. The onus is on applicants to make their respective cases in terms of LDC applications and subsequent appeals. The onus is not on local planning authorities to make a case for applicants.
 11. It is unfortunate that a statement of common ground (SofCG) was not completed by the main parties. However, the Council did engage in this process, and, in fact, I was sent draft copies. It was evident that the appellant wanted a particular format in terms of the SofCG which effectively gave a further opportunity to advance the case being made. The Council did not want to pursue this type of SofCG.
 12. While it is unfortunate that a completed SofCG was not issued to me in time, it is clear from reading the draft SofCG that, in any event, there was not really any common ground of substance between the main parties. In my judgement, the evidence does not support a finding that a failure to complete a SofCG by either side resulted in any wasted time and expense in the appeal process. In my view, I cannot see how the completion of the SofCG would have likely narrowed issues, given the different positions and interpretations of fact that were self-evident between the main parties at the inquiry.
 13. The appellant is essentially critical of the officer report which led to the LDC application being refused. Despite what are minor errors in the officer report, and subsequently corrected as part of the appeal, I find that the officer did suitably consider the evidence that was submitted as part of the LDC application.
 14. In terms of the commentary about a Council tax investigation being carried out and the officer report reference to *'196 Barrowell Road'* instead of 126 Barrowell Road, I do not find that this matter resulted in the appellant incurring wasted time and expense in the appeal process. Indeed, and, as per my LDC appeal decision, the appellant could not, in any event, precisely and unambiguously demonstrate that the appeal property had more than one address. Moreover, the evidence demonstrates that the reference to *'flat B – 126 Barrowell Green'* was unreasonably pursued by the appellant.
 15. The officer report refers to the electoral roll information submitted by the appellant. Under *'Local Planning Authority evidence'* this is neither ticked as a yes or a no. In respect of an LDC application, the onus is on the applicant to make his or her own case. In any event, the electoral roll information submitted by the appellant as part of the appeal was not disputed by the Council. I do not find that the comment made in the officer report about the email exchanges between the appellant's agent and Electoral Services that it *'does not confirm that the tenants live within a self-contained flat at 126 Barrowell Road'* is an unreasonable position to take. Indeed, I make this point myself in my LDC appeal decision.
 16. The appellant has focussed very much on the Council not having any contrary or contradictory evidence of its own. The appeal process has shown that the Council does have contrary or contradictory evidence and, in any event, it is clear that the

Council refused the LDC application because the submitted evidence was not sufficiently precise and unambiguous to demonstrate the claimed lawful use of the appeal building. I recognise that the Council refers in its officer report to an absence of '*relevant utility bills and transactional statements*' but I consider that is simply in the context that such bills and statements may have provided sufficient precision and unambiguity in terms of a more favourable outcome in decision making terms. I do not find that the officer report led to an unreasonable decision on the part of the Council, or indeed any wasted time or expense in the appeal process.

17. The Council does not dispute that a site visit was not undertaken by the case officer as part of the determination of the LDC application, or by its witness in terms of the preparation of its statement of case and proof of evidence. However, in this case I do not find that a site visit would have reasonably assisted the assessment process from the point of view of the use of the building and timeline prior to the date of the LDC application. Moreover, the LDC application included an existing floor plan which reflected what I witnessed on my post LDC application appeal site visit. The absence of a site was not fatal in terms of this appeal: it does not amount to unreasonable behaviour, and it has not resulted in wasted time and expense for the appellant in the appeal process.

Conclusion – Costs Application A

18. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Costs Application B – the submissions of the London Borough of Enfield

19. The Councils claim for a full award of costs is on the basis that the appellant acted unreasonably causing unnecessary expense in the appeal process as follows:

(1) There was never a reasonable prospect of the appeal succeeding given the case made by the appellant about Mr Gerad and Mr Georgiev, who are unrelated and not forming part of a single household, and hence the claimed use of the upstairs as a C3 dwellinghouse would never have been capable of being proven given the definition of a use class C3 dwellinghouse in the Town and Country Planning (Use Classes) Order 1987 (as amended). In closing submissions, the appellant's advocate suggested amending the LDC application description and therefore he must have known that the appeal was hopeless.

(2) The appellant relied on evidence that was inaccurate or untrue. In particular, the appellant continued to pursue a claim that there was a '*flat B – 126 Barrowell Green*' on the electoral register simply because the Electoral Services Manager did not dispute what he had put in his email subject heading. An unreasonable case of '*a failure to deny*' was pursued even after the appellant herself, as a witness, accepted that she did not receive any letters relating to '*flat B*'. This resulted in wasted time and expense in the appeal process.

(3) The appellant did not cooperate in terms of the preparation of the SofCG and used it as an opportunity to continue to make her case.

Costs Application B – the response of Ms Manuela Maria Rodrigues-Mendes

20. In response to the costs application, the appellant commented orally and as follows at the Inquiry:

(1)The Enforcement Officer commented in a letter that there was a C3 dwellinghouse downstairs and so therefore there must have been a C3 use upstairs. There has been two C3 dwellinghouses in the property since November 2020 and until the date of the LDC application.

(2)In respect of the electoral roll information, *'it is clear that emails were not challenged'* and *'electoral records do no show planning uses'*.

(3)The appellant started the SofCG process and there was engagement with the Council in terms of this matter. There has been no unreasonable behaviour.

(4)It is *'a bit of a stretch'* to say that Mr Gerad and Mr Georgiev are not from the same household.

Costs Application B - Reasoning

21. As per my finding in respect of costs application A, it is clear that the appellant did engage in terms of seeking to prepare a SofCG. While I do think the appellant was using the process to essentially continue to make the LDC appeal case, and hence there was some unreasonable behaviour, I do not think that the evidence indicates that the completion of a SofCG would have likely narrowed points of dispute between the main parties in this case.

22. Notwithstanding the above, and, given the conclusions reached in my LDC appeal decision, I do find that evidence indicates that appeal did not ever have a reasonable prospect of being successful. The appellant is professionally represented, and it is reasonable therefore that she should have been aware of the definition of use class C3 in the UCO with reference to living together as a single household. This is also the case because the LDC description of development refers specially to use class C3 of the UCO. Even if the ground floor was in use as ground floor flat at the time of the Enforcement Officer visit, this was a snapshot in time and it does not necessarily follow that that automatically means that the upstairs was in use as a separate use class C3 self-contained flat.

23. I find that there is contradictory evidence submitted as part of the appeal. The accounts of some of the appellant's witnesses at the inquiry did not marry with what was contained with statutory declarations and witness statements. Such evidence not only has cast sufficient doubt about the claims made about four years continuous use of the appeal building as two self-contained C3 residential units, but it was also made clear at LDC application stage that the submitted evidence was not sufficiently precise or unambiguous on its own to demonstrate four years continuous use.

24. The continued reliance at the inquiry on the part of the appellant on there being a *'flat B'*, and based on a *'failure to deny'* what the appellant's agent had put in an email subject header, is, in my judgement, clear evidence of unreasonable behaviour. This evidence was simply not a credible basis for confirming the four-year timeline. Such unreasonable behaviour was compounded in so far that the appellant's advocate/witness pursued this line of evidence even after the appellant,

as a witness, had confirmed that ‘flat B’ was not referenced in correspondence sent to her from the Council.

25. I acknowledged that the appellant’s evidence includes statutory declarations and witness statements. However, these are not supported with precise or objective evidence to support a four-year continuous timeline. I do accept that LDC applications are not required to include specified requirements (e.g., utility bills, bank statements, Council tax records, invoices, receipts and so on), but the point is that this type of evidence assists in terms of cases being sufficiently precise and unambiguous. I find that this is essentially the basis of the Council’s ‘Guidance on Validation Requirements by Application Type’ for ‘certificates of lawful use (existing)’. This must be the case as the Council did not invalidate the LDC application because certain documents had not been submitted with the LDC application.
26. In this case, the appellant has essentially relied on Room Rental Agreements, electoral roll information and the statutory declarations and witness statements to make her case. When considered alongside other evidence, the Room Rental Agreements cast doubt about claims made by the appellant about use of the property as two dwellinghouses. Moreover, the electoral roll information does not relate to actual use of the building.
27. Given the above, coupled with the definition of use class C3 in the UCO, I do not find that the appellant’s appeal case has been reasonably substantiated. I find, therefore, that unreasonable behaviour has been demonstrated in the appeal process and that a full award of costs is justified. While I acknowledge that unreasonable behaviour has not been demonstrated in terms of the preparation of the SofCG, the Council would not have had to deal with this matter had the hopeless appeal not been pursued in the first place.

Costs Application B - Conclusion

28. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Application B - Costs Order

29. 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 Ms Manuela Maria Rodrigues-Mendes shall pay to the London Borough of Enfield, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
30. The applicant is now invited to submit to Ms Manuela Maria Rodrigues-Mendes, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Hartley

INSPECTOR