



Costs Decision

Site visit made on 21 October 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2025

Costs application in relation to Appeal Ref: APP/V5570/W/25/3370593 572 Caledonian Road, London N7 9SD

- 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 Mr Moshe Getter for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against the refusal of planning permission for the subdivision of the property to create 1x 3-bed 4p unit and 1x 2-bed 4p unit, along with external works including fenestration works, new refuse enclosure to front garden and hard and soft landscaping works to front and rear garden without complying with a condition attached to planning permission Ref P2023/1929/FUL, dated 8 August 2024.
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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. The PPG states that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits.
3. The appeal relates to the removal of a planning condition. This was attached to a permission for two flats and removed permitted development rights contained in Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) preventing each of the units being used as a House in Multiple Occupation (HMO). The Applicant's claim is that the Council acted unreasonably and caused unnecessary and avoidable expense. It is contended that the Council imposed and defended a condition that conflicts with the National Planning Policy Framework (the Framework) and the PPG; misinterpreted planning policy; failed to provide any site-specific evidence of harm; ignored a fallback position; did not consider proportionate alternatives; and failed to consider other appeal decisions.
4. The original officer report (P2023/1929/FUL) at the first planning application stage does not refer to the need for attaching a condition removing permitted development rights, nor does it address the effect of the proposal on the occupiers of neighbouring land or buildings. Whilst the reason for imposing the condition does not specifically refer to the relevant development plan policies, nevertheless it clearly states it was to protect amenity and to ensure there is no loss of existing larger homes and to ensure an appropriate mix of dwellings. Together, these are

requirements embedded within Policies H1, H2, H10 and PLAN1 of the Islington Local Plan, Strategic and Development Management Policies, adopted September 2023 (the Local Plan).

5. The officer report (P2025/1330/S73) which forms the subject of the appeal for the removal of the condition referred to the tests for conditions within the Framework and the PPG. The Council made a reasonable planning judgement and I have agreed with the Council that the condition was needed in relation to the supply of family housing and the living conditions of the occupiers of neighbouring properties. Accordingly I do not see circumstances which support the Applicant's claim that the Council imposed a condition that was not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus did not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations.
6. I have dealt with the issue raised in the appeal regarding the loss of residential accommodation. I agreed with the Council on this matter and therefore am not of the view that the Council has misinterpreted planning policy. In any event, the most important policies for determining the appeal were Local Plan Policy H1 and H2 of the relatively recently adopted Local Plan. As such it has not prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
7. As the proposal was to remove a condition, no internal plans or substantive details were provided in respect of the proposed units changing use to a small HMO. As such the Council's general consideration of the issues was proportionate. The officer report addressed common and likely effects arising from HMOs, which in my judgement are potential outcomes. In any event, the Council has also identified the harm arising from the proposal that would affect the Council's ability to maintain a sufficient supply of high-quality conventional housing stock. The Council did not provide vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, particularly as the need to retain such homes is evidenced within Local Plan Policy H2.
8. The Applicant contends the Council failed to consider a fallback position presented to them. It is described in *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314 that there should be a "real prospect" of a fallback development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances. The Council clearly undertook this exercise and made a reasonable planning judgement on this matter, as set out in the officer report and statement of case. The Council therefore did not act contrary to, or did not follow, well-established case law.
9. Instead of removing permitted development rights, the Applicant states the Council should instead have imposed a condition for a HMO management plan. However, the Council identified that the planning application was not supported with a detailed management plan. Therefore, whilst this could have been conditioned, the Council would have needed to have been satisfied that this would have met the requisite tests for such a condition and would have addressed the concerns and met their own criteria. Without such detailed information and based on detail of the submission before them. Therefore the Council did not act unreasonable by

refusing planning permission on a planning ground capable of being dealt with by conditions.

10. The Applicant has drawn attention to other appeal decisions in support of the point that permitted development rights should only be removed in exceptional circumstances. Consistency in decision-making is important both to developers and local planning authorities because it serves to maintain public confidence in the operation of the development management system. But it is not a principle of law that like cases must always be decided alike. In any event, the Council exercised their judgement on these cases. As can be seen from my decision, I have not found these to have any overriding outcome on the appeal. Therefore I cannot agree that the Council have acted unreasonably in relation to not determining similar cases in a consistent manner.
11. Overall, none of the above to me, clearly fall within unreasonable behaviour which may give rise to procedural or substantive award as suggested within the PPG. Nor is it apparent that an appeal could have been avoided.

Conclusion

12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Williams

INSPECTOR