
Costs Decision

Site visit made on 21 October 2025

by **N Duff BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 December 2025

Costs application in relation to Appeal Ref: APP/V5570/W/25/3370575

29 Arthur Road, London N7 6DS

- 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 Jordan Saul 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 conversion from a single dwellinghouse to 2 no. self-contained flats with associated works including provision of cycle storage enclosure and a dedicated refuse storage area to front garden without complying with condition 4 attached to planning permission P2024/1232/FUL.
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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 application for costs relies to a substantial extent on whether the Council has acted unreasonably by imposing a condition on the original planning permission¹ which by removing permitted development rights prevented the change of use of either of the approved residential units and then refusing the subsequent application which sought to remove the condition².
4. It is established in the PPG and National Planning Policy Framework that the removal of permitted development rights should only be exercised where there is clear justification to do so. The applicant has stated that the Council has acted unreasonably by removing permitted development rights and subsequently refusing the section 73 application to remove condition 4 without a sound planning basis. The appellant has asserted that the removal of permitted development rights through a condition is improper and should be done by an Article 4 direction. Whilst an Article 4 direction is a suitable method for removing permitted development rights within an area, a Council as decision maker retains the ability to remove permitted development rights by way of condition should it have clear justification to do so.
5. I am satisfied that the Council has set out its reasoning for the removal of condition 4 which is included in its detailed officer report and statement of case.

¹ P2024/1232/FUL Approved with conditions 7th May 2025

² P2025/1397/S73 Refused 17th July 2025

Whilst the original reason for the condition did not contain development plan policies, both the reasons for refusal of the section 73 application and officer report clearly set out the policies relating to housing and living conditions. The report provides justification for the removal of condition 4 against the current development plan policies, and states that the subdivision of the units is likely to have implications which should be the subject of consultation and a full planning application, and that concentrations of HMOs in a residential area presents issues in relation to the borough's housing goals.

6. Turning to the applicant's assertion that the Council has acted contrary to or not followed established case law³ relating to the classification of HMOs as dwellings. Based on the information before me, to my mind the Council does not fail to consider HMOs as residential accommodation or dwellinghouses, just not as family housing, such as the 2- or 3-bedroom units approved at the appeal site or as they have described 'conventional housing stock'. Therefore, I do not consider that the Council has misinterpreted case law in this case.
7. The applicant has stated that the Council relied on vague enforcement history and generalised fears of HMO impacts without localised data, surveys or evidence. However, due to the development plan policies which have been relied on by the Council, I am satisfied that there is sufficient rationalisation within the officer's report to justify its decision, particularly regarding the types of housing that are needed in the area and concerns regarding living conditions, without the need for detailed surveys conducted on behalf of the Council.
8. I do not have sufficient evidence before me to conclude that the Council did not consider the applicant's fallback position, as this was given weight in the officer's report. Furthermore, supporting documents including appeal decisions provided by the applicant were taken into account by the Council as analysis of these cases has been provided in the officer's report. Whilst fallback positions and previous appeal decisions can be attributed weight, the level of weight is down to the decision maker. Fallback positions do not automatically demand high levels of weight to be attributed to them, nor do they automatically outweigh other concerns making a development acceptable.
9. For the reasons mentioned above, I am satisfied that the Council has not behaved unreasonably in concluding in the way it has in exercising its planning function.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

N Duff

INSPECTOR

³ London Borough of Brent v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 2051 (Admin).