



Costs Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Costs application in relation to Appeal Ref: APP/Q5300/X/24/3355066

1A Lichfield Road, London N9 9HD

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andreas Francesco for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of an LDC use of the building as 4 self-contained flats.
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Decision

1. The application for an 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. The application for costs, dated 26 March 2025, was forwarded to the Council on the same date. The accompanying letter stated that "If you wish to respond, please do so...within 7 days from the date of this letter". The Council did not respond.
4. The Council, when considering the application for an LDC for 'use of the building as 4 self-contained flats', applied a 10 year period to establish immunity from enforcement action rather than the correct 4 year period. This error was brought to the Council's attention on several occasions and they acknowledged the error. However, the Council did nothing to correct the error by re-assessing the application and, instead, proceeded to issue a Refusal Notice for the reason that "Insufficient evidence has been submitted...to demonstrate that...the building...has been in continuous use as four self-contained residential units for more than ten years..." (emphasis added).
5. The circumstances in *Kings Cross Railway Lands Group v LB of Camden [2007] EWHC 1515 (Admin)* were different to the circumstances in this case but there was no dispute between the parties in that case that a Council is "...entitled as a matter of law to "change its mind" and revoke the earlier resolution...". Similarly, in *Regina v LB of Hammersmith and Fulham and Others [2002] UKHL 23* it was found that "...a local authority may come under a duty to reconsider its decision if flaws are brought to its attention...". These legal authorities provide clear guidance on the need for a Council to reconsider a resolution if a legal flaw is brought to their attention.
6. The Council has not submitted an appeal statement and rely instead on a Delegated Report. Reference is made in the Report to previous enforcement action but the Council has been unable to provide copies of any enforcement notices. This was unreasonable but has not led to any significant wasted expense. Similarly, the

Council's failure to engage with the appeal process is unreasonable but has not resulted in any wasted expense.

7. The Council did not heed the clear legal authorities by reassessing the application. Had they done so they may have reached the same conclusion on the issue of immunity but by not reassessing the application the Appellant was denied the opportunity to have his application properly considered at application stage. The Council's error was unreasonable and their failure to reassess the application, even though the error had been brought to their attention, was also unreasonable. Had the Council reassessed the application they may have reached a different decision and, on this basis, the Council's unreasonable behaviour has caused the Appellant to incur costs in the appeal process.

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

Costs Order

9. 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 the Council of the London Borough of Enfield shall pay to Mr Andreas Francesco, 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.

10. The applicant is now invited to submit to the Council of the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

John Braithwaite

Inspector