



Costs Decision

Site visit made on 11 September 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

Costs application in relation to Appeal Ref: APP/T5150/W/25/3368761 19 Christchurch Avenue, London, NW6 7QP

- 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 Qasim Gulamhusein of 19 NW6 A Ltd for a full award of costs against the Council of the London Borough of Brent.
- The appeal was against the refusal of planning permission for the demolition of an existing single storey outbuilding at 19 Christchurch Avenue and the building at 2B Chatsworth Road, and the erection of a pair of two-storey, semi-detached houses (all matters reserved except layout and scale).

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 (“the 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 procedural elements of the claim

3. Paragraph 047 of the PPG gives examples of behaviour which may give rise to a procedural award of costs against a local planning authority, including “lack of co-operation with the other party or parties”, “delay in providing information or other failure to adhere to deadlines”, “prolonging the proceedings by introducing a new reason for refusal”, “introducing fresh and substantial evidence at a late stage [...]”, and “providing information that is shown to be manifestly inaccurate or untrue”¹. These examples relate to conduct during the appeal.
4. It is clear that, having refused planning permission on 2 June 2025, the Council was not immediately able to provide a copy of its officer report to the applicant. It is less clear to me as to exactly why that happened, nor when the applicant finally received the report.
5. The Council says that its online records show that the report had been published on 2 June, the same day as the decision was issued, but that “there may have been an IT issue which would explain why the report wasn’t available”. The applicant contacted the Council by e-mail on 2 June, 4 June, and again on 16 June, each time requesting a copy of the report, each time without reply. As late as 7 July, the applicant states, no officer report was available on the Council’s website. It seems that the applicant finally received the officer report at some point after 25 July 2025,

¹ Reference ID: 16-047-20140306 Revision date: 06 03 2014

once it had been submitted the Planning Inspectorate for this appeal. It also appears that the Council did not submit this directly to the applicant, as it is required to do by Regulation 12 of the Town and Country Planning (Appeals)(Written Representations Procedure)(England) Regulations 2009.

6. The applicant has gone on to suggest, based on metadata in the PDF file supplied, that the officer report was only created on 16 July. That may be true; equally, from my own limited knowledge of such matters, it is possible that the PDF had been created on that date from another “master” version of the report – perhaps, say, a Microsoft Word file – which existed beforehand. I do not know what precisely happened, nor can I untangle the chain of events from the evidence before me.
7. The applicant also drew my attention to caselaw on this matter, in a section of their statement outlining the “requirement for clear and adequate reasons”. However, for the purposes of determining this costs application it is not necessary for me either to try to resolve what happened in respect of the “missing” officer report, or to delve into the various judgments which were put before me². The Council could have responded to the applicant’s e-mails requesting a copy of the officer report. If nothing else, in view of the apparent “IT issue” it was facing, it would have been good manners to do so reasonably promptly. It also did not supply the officer report to the applicant with its appeal questionnaire as it was required to do. In these respects, it did not cooperate adequately with the applicant, nor did it provide information in a timely manner or adhere to deadlines. It therefore behaved unreasonably.
8. The suggestion that the Council might introduce new reasons for refusal was put forward speculatively by the applicant at the time their appeal statement was submitted, though I recognise that statement had been prepared before the applicant had seen the Council’s officer report. As things turned out, the Council did not do so; it did not act unreasonably in this respect. Having eventually seen the Council’s officer report the applicant made additional appeal submissions during August which, in view of the background of the “missing” officer report, I accepted; I return briefly to this point below.
9. Most of the reasons put forward by the applicant in relation to the Council’s assessment of the proposal and its subsequent appeal evidence go to the heart of the planning matters in this case, and they are therefore dealt with at length in my main decision. Many points made relate to questions of judgement or nuance; for example, the applicant takes particular issue with the Council’s observation that ground floor and basement windows at No 19 Christchurch Avenue are within 18m of the nearest elevation of the proposed dwelling. That, by the applicant’s measurement, it is only the basement windows which fall within that distance does not make the Council’s evidence “manifestly inaccurate or untrue”. I do not find it has acted unreasonably in this respect.

The substantive elements of the claim

10. Paragraph 049 gives examples of behaviour which may give rise to a substantive award of costs against a local planning authority, including “preventing or delaying development which should clearly be permitted”, “failure to produce evidence to substantiate each reason for refusal on appeal”, “acting contrary to, or not

² Though for the sake of completeness and ease of reference I have listed the judgments referred to in Schedule 1 at the end of this Decision

following, well-established case law”, and “persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable”³.

11. The substantive grounds put forward by the applicant fall broadly within these examples. Again, they go to the heart of the planning matters in this case, and they are therefore addressed at length in my main decision, so I can deal with them briefly here. I found the Council’s reasons for refusal relating to the character of the area, and to living conditions, to have been evidenced and substantiated. While I did not ultimately agree with its assessment in respect of trees, that was only on the basis of evidence (an arboricultural impact assessment (“AIA”) and related information) submitted during the appeal. Neither the caselaw nor earlier appeal decisions to which I was directed justified my reaching a different decision.
12. While I did not accept every element of the Council’s assessment of the proposed development, it is of some relevance to this claim that I dismissed the appeal. Overall, I found the Council’s decision correct and rooted in a sound assessment of the planning issues; while it made some errors these did not undermine its overall analysis. It should be clear from this that I cannot find that the Council prevented or delayed development which should clearly have been permitted.
13. I have found that the Council acted unreasonably, as I have set out in paragraphs 3 to 8 above. That only encompasses part of the broad claim put forward by the applicant, but it is regrettable all the same. However, in order to make order to make an award of costs, I need to be satisfied that any unreasonable behaviour resulted in unnecessary or wasted expense.
14. I have some sympathy with the appellant in trying to put together their appeal statement without having seen the officer report, though the summary reasons on the decision notice were, in my view, sufficiently accurate and detailed that the main issues in the appeal could be clearly understood by an informed reader. While the applicant’s first appeal statement was certainly wide-ranging, it need not therefore have been “speculative”.
15. The applicant suggested that I should as a minimum make a partial award covering the costs of further appeal submissions made in August. While I accepted those submissions, on my reading there was little or nothing in them dealing with matters that could not have been addressed either during the application or in the initial appeal statement. For example, although trees had been dealt with in the initial statement, the applicant returned in August to what they described as the Council’s “unfounded assumptions regarding arboricultural harm”. However, in view of both the appeal site’s planning history and the development plan’s requirements in respect of trees, the necessity of providing an AIA for the proposed development should really have been anticipated by the applicant.
16. Similarly, although the August submissions included annotated plans addressing the “30-degree rule” in respect of the separation of buildings, in view of the appeal site’s planning history and location the applicant should have anticipated the need to address matters relating to whether or not the proposed development would be overbearing or lead to harmful overlooking. The wording of the second reason for refusal is quite clear in this respect, and the approach to assessing the issue (including separation distances sought, and the 30- and 45-degree rules) is clearly

³ Reference ID: 16-049-20140306 Revision date: 06 03 2014

set out in the Council's relevant supplementary planning document. Again, the information provided by the applicant in August could, and probably should, have formed (at the latest) part of their original appeal submissions, regardless of the Council's unreasonable behaviour in respect of cooperation and communication.

17. Overall, I consider that, regardless of when the Council's officer report had been made available, the applicant would have been likely to appoint a consultant to fight the appeal. The additional submissions made in August did not address any matters which could not reasonably have been anticipated by a well-informed applicant with knowledge of the appeal site's history and setting, and the development plan and associated guidance. While I therefore find that the Council acted unreasonably in some respects, I do not find that this led directly to unnecessary or wasted expense for the applicant.

Conclusion

18. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Cryan

Inspector

Schedule 1

“Clear and adequate reasons” judgments referred to by the appellant

Dover District Council v CPRE Kent [2017] UKSC 79

Porter v South Bucks District Council [2004] UKHL 33

-

Midcounties Co-operative Limited v Forest of Dean District Council [2017] EWHC 2056 (Admin)