



Costs Decision

Site visit made on 19 June 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/25/3362587**

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 change of use of an existing outbuilding to create a self-contained 3-bedroom C3 residential dwelling.

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”, “introducing fresh and substantial evidence at a late stage [...]”, and “providing information that is shown to be manifestly inaccurate or untrue”¹. Though the PPG is clear that those examples deal with procedural matters *at the appeal* (my emphasis), the applicant has put forward an example under each of these grounds relating to the planning application. Essentially they all boil down to the same thing – the Council’s seeking an arboricultural impact assessment (“AIA”) in support of the planning application, in view of the potential impacts of the appeal scheme on mature trees, including one protected by a tree preservation order (“TPO”).
4. The main parties’ evidence referred to appeal decisions from 2023 and 2024 relating to the site (PINS Refs: APP/T5150/W/23/3317504 and APP/T5150/W/23/3327028 respectively), both of which dealt with the issue of possible adverse effects on trees, and both of which were dismissed. In the 2023 appeal decision, the Inspector noted that there was no substantiated evidence before them to demonstrate that the proposal would not have a harmful impact on trees and that, given the detrimental impact a loss of trees on or adjoining the appeal site would have on the character and appearance of the area, it would not have been appropriate to leave the matter to be controlled by the imposition of condition requiring the submission of an AIA.

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

5. The (different) Inspector dealing with the 2024 appeal found no harm in respect of one of the protected trees, but that other trees close to the site could be harmed by the proposed development. Again, no AIA had been submitted either at application stage or during the appeal, and this Inspector therefore couched their overall conclusion on the matter in very similar terms to those used by our colleague in 2023.
6. The appeal scheme which was before me was not the same as the two earlier schemes, but again had the potential to adversely affect trees on and around the appeal site. It is perhaps surprising that the scheme was again submitted without an AIA, partly in the light of the two earlier decisions, but also because it is a clear requirement of Policy BGI2 of the 2022 Brent Local Plan that a BS5837 or equivalent tree survey should be submitted for “development with either existing trees on site or adjoining it that could affect trees”. It was not unreasonable for the Council to take the view that the proposed development could affect trees, and not unreasonable for it to seek the submission of an AIA to enable it to properly assess the planning application.

The substantive elements of the claim

7. 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”, relying on “vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis”, 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”². The substantive grounds put forward by the applicant fall broadly within these examples.
8. For reasons which are set out in my main decision, I allowed this appeal and granted planning permission for the proposed development. However, it does not follow from this that the Council had prevented or delayed development which should *clearly* be permitted. As I have set out above, no AIA was submitted as part of the planning application. A great amount of the applicant’s lengthy appeal submission addressed the perceived implications of the 2024 appeal decision, though as I have already explained above the scheme before me was not the same. The Council’s case was set out in clear and specific terms during the appeal, at which point there had still been no AIA provided.
9. It was only when a separate application was made for TPO consent to remove and replace a damaged protected tree was submitted that a suitable AIA was provided. That consent was granted by the Council in October 2025. As is explained in my main decision, my allowing the appeal was, for the most part, based on the information submitted in respect of the TPO consent application, rather than any evidence put forward up to that point in respect of this appeal. Notwithstanding that I allowed the appeal, none of the evidence which has been put to me here demonstrates that the Council has acted unreasonably.

² Reference ID: 16-049-20140306 Revision date: 06 03 2014

Conclusion

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

M Cryan

Inspector