
Costs Decision

Site visit made on 27 November 2025

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2026

Costs application in relation to Appeal Ref: APP/Q5300/W/25/3373101

38 Turkey Street, Enfield EN3 5TP

- 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 the Council of the London Borough of Enfield Council for a full award of costs against Mr Marcello Monsellato.
 - The appeal was against Condition Number 8: The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of six people at any one time and shall not be subdivided or occupied as self-contained units.
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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 Council are of the view that the appellant was unreasonable to apply to vary a planning condition attached to their permission for 'Conversion of use from C3 (dwelling house) to 6 -bedroom 6- person HMO – House in multiple occupation (C4) with single-storey ground floor extension, first- floor side extension and roof extension (amended description).'
4. The decision notice included a number of planning conditions the Council saw fit to impose. The area in dispute between the parties relates to Condition 8 of the approved scheme. Condition 8 reads as follows: 'The use of the property as a House in Multiple Occupation hereby approved shall be occupied by a maximum of six people at any one time and shall not be subdivided or occupied as self-contained units.' The appellant requested this condition be varied to increase the number of occupants within the dwelling from six to nine.
5. The Council have responded to the appeal referencing the Court of Appeal Judgment of *Finney v Welsh Ministers & Ors* (Rev 1) [2019] EWCA CIV 1868 (Finney) and are of the view that to vary the condition as requested would amount to development fundamentally different to that approved under the original application.
6. As I have included in my decision notice, the Court for Finney held that it was beyond the powers of the decision maker under S73 to alter the description of the development, as this is the operative part of the permission and S73(2) states that

the planning authority must consider only the question of conditions. It follows, from Finney, that where amending a condition would result in a conflict between the new condition and the description of the development, that the particular amendment is beyond the powers under S73 and cannot be made. A fresh planning application is instead required. An amendment can only be made provided the new condition does not fundamentally alter the proposal originally granted permission.

7. As I also explained within my decision letter, the 'Finney' principles are not applicable to S79 appeals because this type of appeal includes the powers for myself as the Planning Inspector to consider the matter afresh and deal with the application as if it has been made to them in the first instance. In such cases I also have the powers to amend the description of the development should I consider it necessary.
8. The appellant proceeded to apply to the Planning Inspectorate to vary the planning condition as appropriate. They were advised by the Council that their original request for a larger HMO would not be supported, hence they revised the proposal together with the extension in order to receive a favourable decision. Whilst my decision notice did not support the variation to Condition 8, nonetheless the appellant was clear in their original objective to seek to secure a larger HMO and decided to test this condition at appeal. They have the right to an appeal. I do not consider this was unreasonable for the appellant to do so.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Alison Scott

INSPECTOR