
Costs Decisions

Site visit made on 20 November 2025

by **D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 9th February 2025

Costs application in relation to Appeal A Ref: APP/D5120/C/25/3369040 & Appeal B Ref: APP/D5120/C/25/3369041

178 and 178A Park View Road, Welling, Kent DA16 1ST

- The applications are made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The applications are made by the Council of the London Borough of Bexley for full awards of costs against 178 Park View Ltd (Appeal A) and Mr Mohammad Yousuf (Appeal B).
- The appeal was against an enforcement notice alleging: The erection of a part three / part four storey building comprising mixed use commercial, Class F1 (place of worship) and x6 self-contained units of accommodation on Land at 178 Park View Road, Welling, Kent DA16 1ST, ("The Land").

Decisions – both applications

1. The applications for awards of costs are 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. Awards against an appellant may be either procedural or substantive. The PPG provides non-exhaustive lists of examples of the types of behaviour which may give rise to an award of costs, these include: delay in providing information or other failure to adhere to deadlines; providing information that is shown to be manifestly inaccurate or untrue; withdrawal of an appeal without good reason; a ground of appeal had no reasonable prospect of succeeding.
4. The applications and responses were made in writing, so I need not repeat them in full. In summary, the full awards are sought because it is argued that the grounds of appeal had no reasonable prospects of succeeding, there was a delay in withdrawing the ground (d) appeal, a fraudulent doctor's letter was submitted and additional evidence cannot be treated as reliable, the submitted as built plans are inaccurate, the ground (a) and (f) appeals included substantive changes and extensions to deadlines were repeatedly requested.
5. The Council has stated that it wrote to the appellants on 6 August 2025 providing the evidence it intended to submit as part of its response to the ground (d) appeals. This evidence was sent as the Council believed that based on it the ground of appeal had no reasonable prospect of success. The Council also states that it was indicated that a costs application would be submitted if the ground of appeal was pursued and a deadline of 13 August 2025 for a response was given. The Council

sent further correspondence on 13 August giving a deadline of 15 August 2025. The ground (d) appeal was withdrawn by the appellant on 2 September 2025 prior to the submission of the Statements of Case deadline of 5 September 2025 and the Case Management Conference (CMC) that opened on 8 September 2025.

6. The appellants did not withdraw the ground (d) appeals nor did they respond to the Council's correspondence within the deadlines given by the Council. Moreover, the appellants' agent stated that the delay in responding to that correspondence was due to Mr M Yousuf 's ill health and a letter purporting to be from a doctor at a medical practice was submitted with the withdrawal correspondence. Furthermore, that correspondence requested the procedure for determining the appeal be changed to written representations and the timetable restarted.
7. The Council subsequently indicated that it had evidence to show that the doctor cited within the letter had retired in 2017 and that the letter had not been sent from the medical practice. The Council also stated that the procedure should remain as an Inquiry to enable evidence under oath to be given in relation to the ground (b) appeals. On 4 September I directed that the submissions of Statements of Case were to be postponed until after the CMC.
8. The agent requested that the CMC be postponed in correspondence received by the Planning Inspectorate shortly before its proposed start time. As such, I was unaware of that request, and the CMC was opened as proposed on 8 September 2025. At the CMC the agent confirmed that the doctor's letter was not sent by the medical practice and again requested that the CMC be postponed and the procedure changed. After receiving both parties' submissions, I found that the appropriate procedure to determine the appeals was written representations and the timetable for submission of evidence was restarted.
9. Even though the submitted doctor's letter was not sent by the medical practice as purported it appears that Mr Yousuf has health issues as outlined in an additional submission. Moreover, the ground (d) appeals were withdrawn prior to the CMC at an early stage within the appeal process. The Council appointed Counsel to represent it at the CMC. Yet it stated that the ground (b) appeals also necessitated evidence to be given on oath and therefore an Inquiry was the appropriate procedure. As such, the appointment of Counsel was not based solely on the ground (d) appeals.
10. The appellants did provide a manifestly untrue document, and delays/postponements were requested based on that document. Nevertheless, the ground (d) appeals were withdrawn early in the process, an Inquiry was not required, and the site visit was carried out prior to the date that had been set to hold the Inquiry. The appellants behaviour in submitting that document was unreasonable, but it did not result in unnecessary or wasted expense.
11. With regards to the ground (b) appeals the Council considers that they did not have a reasonable prospect of success given its evidence and that the evidence submitted by the appellants cannot be treated as reliable due to the doctor's letter. Nevertheless, assessing the evidence submitted is a matter of judgement. The Council's evidence appears to contradict that of the appellants yet there is nothing before me to indicate that the appellants' evidence submitted in support of the ground (b) appeals is manifestly untrue. Whilst the ground (b) appeals failed that failure was unrelated to the factors raised by the Council.

12. The company that is the appellant in Appeal A was put into receivership after the appeals were made. In my substantive decision I have found that the appeals were validly made. As such, the fact that the company is now in receivership has no bearing on the determination of the appeals. Therefore, the agent not informing the Planning Inspectorate and/or the Council of that fact cannot be treated as unreasonable behaviour within the appeals process.
13. The restarted timetable within the written representations procedure stated that statements of case were to be submitted by 23 October 2025. On 22 October 2025 the agent requested an extension of time to 28 October 2025 for reasons including: *'The ground f) plans include top floor substantive redesign to meet privacy/overlooking and daylight/sunlight requirements, not a superficial amendment as the building massing, height, window positions and internal layouts need to be re-worked to ensure compliance and to minimise any risk of objection.'* That extension of time was granted, and alternative plans were submitted with the statement of case.
14. However, those plans only related to alterations to the front elevation and within my substantive decision I have found that they can be treated as forming part of the matters of the deemed planning application under section 177(1)(a) of the 1990 Act. It is unclear why the agent cited a more extensive alternative scheme than the one that was submitted. In any case, the requested extension of time was only a few days, and the determination of the appeals was not delayed by that extension. The appellants behaviour in this respect cannot be treated as unreasonable.
15. That statement of case was also accompanied by a set of "as built" plans and the Council considers that those plans contain inaccuracies including the height of the adjacent properties on the street scene elevations. From my observations the ridge height of No 176 as shown on those plans appears to be slightly higher than in reality. Yet there is little to indicate that those plans of the appeal building itself are manifestly inaccurate. Moreover, I was able to observe and judge the impact of the appeal building at the site visit. The ground (a) and ground (f) appeals involve relatively complex matters of judgement. I have dismissed the ground (a) appeal, taking into account the alternative scheme submitted as part of the ground (f) appeals. Yet, because of those matters of judgement the appellants were entitled to expect that they had a reasonable prospect of success. Therefore, they did not act unreasonably by submitting these grounds of appeal.
16. Overall, while the appellants behaviour with regard to the doctor's letter was unreasonable there has not been any unnecessary or wasted expense from the submission of that letter. Moreover, for the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

D Boffin

INSPECTOR