



Costs Decision

Site visit made on 10 February 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Costs application in relation to Appeal Ref: APP/T0355/C/24/3339463

The Crown, 108 Wootton Way, Maidenhead SL6 4PE

- The application is 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 application is made by Mr Zahid Sadiq for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of fencing and gates.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) chapter on appeals advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030).
3. Paragraph 028 of the PPG explains that the aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. At paragraph 031, the PPG advises that 'unreasonable' has its ordinary meaning, as established by the Courts¹ and that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.
4. The applicant sought a full award of their costs, on what I take to be both procedural and substantive grounds. The application was made in writing, in accordance with the PPG at paragraph 035.
5. In summary, the applicant's case is as follows. Preparing for the appeal has involved spending time gathering evidence and having to seek professional assistance. The Council should have had greater engagement with the applicant before issuing the enforcement notice. The applicant was contactable by and in contact with the Council. Although the applicant did not receive the Planning Contravention Notice (PCN), it could have been re-served. Sufficient evidence could have been provided to show that the boundary treatment was immune from enforcement action and the expenses incurred by the applicant would most likely have been avoided. Also, the Council were probably aware from planning

¹ *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774

- applications submitted in respect of the appeal premises that the boundary treatment was immune, so it should have accepted the applicant's evidence and withdrawn the notice.
6. In response, the Council pointed out that the applicant only made contact following being notified of legal proceedings due to the failure to reply to the PCN. Although the primary focus might have been on the use of the premises, the Council did advise that the boundary treatment was also at issue. Subsequently, after allowing time for submission of a planning application, which was not forthcoming, the Council warned the applicant that an enforcement notice would be issued but received no response. Had the Council accepted the evidence provided with the appeal and withdrawn the notice it would have deprived the applicant of a determination. The work undertaken by and on behalf of the applicant was not wasted; similar evidence would have been required to support an application for a Lawful Development Certificate under s191 of the Act.
 7. The PPG confirms that a Council is required to behave reasonably in relation to procedural matters at an appeal, for example by complying with the requirements and deadlines of the process. At paragraph 047, the PPG provides a non-exhaustive list of examples of unreasonable behaviour relating to the procedures in an appeal. These include lack of co-operation with the other party or parties, delay in providing information or other failure to adhere to deadlines, failing to provide relevant information within statutory time limits resulting in an enforcement notice being quashed without the issues on appeal being determined, withdrawing an enforcement notice without good reason and providing information that is shown to be manifestly inaccurate or untrue.
 8. Paragraph 048 of the PPG stresses that a Council must carry out an adequate investigation prior to issuing an enforcement notice. A Council will be at risk of an award of costs being made if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.
 9. At paragraph 049, the PPG provides a non-exhaustive list of examples of unreasonable behaviour relating to the substance of the matter at appeal. These include failing to produce evidence to substantiate each reason for refusal on appeal and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, acting contrary to or not following well-established case law, not determining similar cases in a similar manner, not reviewing their case promptly following the lodging of an appeal and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
 10. I do not share the applicant's view that there was insufficient engagement with them by the Council prior to the notice being issued. It is unclear why the applicant did not receive the PCN but there is nothing to suggest the Council were at fault in that respect. When the applicant did contact the Council significant time was offered to remedy the matters at issue voluntarily before formal action was considered but this did not lead to a resolution. Accordingly, it is unclear how the Council could have reasonably expected that the applicant would voluntarily supply information on the boundary treatment. As far as I was made aware, the applicant

made no response to the Council's final warning prior to commencing formal action. That correspondence may not have made reference to the boundary treatment. However, being part of the matters at issue at the premises I am unclear why the applicant might have assumed other than that the boundary treatment would also form part of any formal action taken.

11. There is little firm evidence to suggest that the Council were aware that the boundary treatment was immune from enforcement action. It is by no means clear whether Council officers had previously visited the premises other than as detailed in its written statement of case. Some of the planning applications made in recent years to redevelop the premises were under consideration during the COVID-19 pandemic, when restrictions on movement were in force. It was open to the Council to withdraw the notice having considered the supporting evidence submitted with the applicant's written statement. However, by that stage the applicant had already incurred most of their expenditure. Moreover, the appeal decision at least provides the applicant with conclusive proof of immunity from enforcement action in respect of the boundary treatment.
12. Turning now to the substance of the appeal. The onus was firmly on the applicant to submit evidence to demonstrate why their ground (d) appeal should be allowed and the notice quashed. The Council clearly set out in an objective manner why it considered that the burden of proof had not been discharged in this instance. The Council's case demonstrated that it was entirely possible to reach a reasoned, opposite conclusion to the applicant, drawing inferences from the evidence available prior to submission of the applicant's written statement. Accordingly, whilst I ultimately disagreed with the Council's conclusions, its case was nevertheless substantiated.
13. Drawing these matters together, based on the available evidence I am not persuaded that the Council have acted in a manner similar to any of the examples of unreasonable behaviour referred to above relating either to the investigation prior to the notice being issued, the procedures in the appeal, the substance of the case, or to any other of the examples referred to in the PPG, or that they have otherwise acted unreasonably. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

14. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stephen Hawkins

INSPECTOR