



The Planning Inspectorate

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Mr Paul Robinson
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Your Ref:

Our Ref: APP/B5480/C/22/3313779

Date: 3 March 2026

Dear Sir

**LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN & COUNTRY PLANNING ACT 1990 – SECTIONS 174 & 322
5A MYRTLE ROAD, ROMFORD, ESSEX, RM3 8SX: APPEAL BY MR BOGDAN
BALUSI: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Housing, Communities and Local Government to refer to the Planning Inspector's decision dated 19 May 2025 concerning the appeal by Mr Bogdan Balusi. It was against an enforcement notice issued by London Borough of Havering Council on 1 December 2022. The notice alleged a breach of planning control on land described above by:

*"1. Without planning permission, the construction of a rear extension; and
2. Without planning permission, the construction of a hard surface in the front curtilage."*

2. With apologies for the delay, this letter deals with the appellant's late application for an award of costs against the Council¹ as made in correspondence of 18 June and 9 July 2025. The Council replied in correspondence of 7 July 2025. As these costs submissions have been fully disclosed to the parties, it is now proposed to summarise them in detail. They have been carefully considered.

Summary of decision

3. The formal decision is set out in paragraphs 13 and 14 below. The application succeeds to the extent that a partial award of costs is being made.

¹ The Planning Inspectorate's email of 25 June 2025 explained to the parties that, in the relevant circumstances, the Secretary of State had exercised discretion to accept the late application for consideration.

Basis for dealing with the costs application

4. In planning and enforcement appeals the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.
5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party, irrespective of procedural method, where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.
6. The application for costs has been considered by reference to the Government's Planning Practice Guidance (PPG) on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

Reasons for the decision

7. All the available evidence has been carefully considered. The decisive issue is whether the Council acted unreasonably by issuing an invalid enforcement notice, with the result that the appellant incurred wasted or unnecessary expense in appealing against it. Paragraph 048 of the guidance is considered to be particularly relevant to this case.
8. The requirements of the enforcement notice were set out as follows:
 - (i) *Demolish the rear extension;*
Or
 - (ii) *Reduce the depth and height of the rear extension to no more than 3 metres at any point;*

And
 - (iii) *Either remove the hard surface to the front OR install drainage and an underground soakaway with a capacity of not less than 1 cubic metre so that all surface water runoff is disposed of within the curtilage of the dwelling;*
And
 - (iv) *Remove all other debris, rubbish or other materials accumulated as a result of taking steps (i) to (iii) above.*

The Inspector considered that these requirements were ambiguous and also incapable of correction without causing injustice to the appellant, with paragraph 6 of his decision stating:

"...I conclude that the enforcement notice does not specify with sufficient clarity the requirements necessary to address the alleged breaches of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since

injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.”

The grounds pleaded in the appeal ((a), (c), (f) and (g) under section 174(2) of the 1990 Act) therefore did not fall to be considered. A revised notice was issued on 20 May 2025 with redrafted requirements. An appeal against this notice was received on 18 June 2025.² This appeal is yet to be determined.

Conclusions

9. The Secretary of State takes the Inspector’s appeal decision to be a material consideration in his determination of the application for costs. Whilst the LPA consider the notice is correctable, the Secretary of State has to take the Inspector’s decision at face value. He has no jurisdiction to reconsider the Inspector’s findings. The Council point out that neither party were asked for comments on the notice requirements prior to the issue of the appeal decision, however it should be noted there is no requirement to do so, and it cannot be assumed the Inspector might have made a different conclusion had such comments been sought.

10. It is ultimately the responsibility of local authorities to ensure that an enforcement notice is correct in all respects before proceeding to issue it. It appears clear from the evidence that this was not the case here. The Secretary of State concludes that it was not expedient for the Council to have issued the notice at the outset, as drafted. This amounts to unreasonable behaviour within the scope of paragraph 048 of the costs guidance. The practical consequence of the Council’s actions was that the appellant incurred wasted expense in submitting what transpired to be an unnecessary appeal. An award of costs will be made accordingly.

11. As to the extent of the award, as a further appeal was submitted against the revised notice, under the same grounds, the Secretary of State takes the view it is reasonable to conclude that a certain amount of the costs incurred in this appeal are reusable in the new appeal. Nevertheless, as the appellant was professionally represented, the Secretary of State is satisfied that some quantifiable expense was incurred by the appellant in the submission of this appeal. Therefore, the award of costs will be limited to those costs incurred that are not reusable in the appeal against the revised notice.

12. For the avoidance of doubt, the Secretary of State does not determine the amount payable where an award of costs is being made. That will be for the parties to resolve by agreement on the evidence of expense actually incurred or, failing that, in the context of an application to the Senior Courts Costs Office for detailed assessment.

FORMAL DECISION

13. For the reasons given above, the Secretary of State has decided that a partial award of costs against the Council, on grounds of “unreasonable” behaviour

² APP/B5480/C/25/3367840

resulting in “wasted” or “unnecessary” expense is justified in the particular circumstances.

COSTS ORDER

14. Accordingly, the Secretary of State for Housing, Communities, and Local Government, in exercise of his powers under section 250(5) of the Local Government Act 1972, and sections 174 and 322 of the Town and Country Planning Act 1990 (as amended), and all other powers enabling him in that behalf, **HEREBY ORDERS** that London Borough of Havering Council shall pay to Mr Bogdan Balusi, his costs of the appeal proceedings before the Secretary of State, that were not re-useable in relation to appeal APP/B5480/C/25/3367840; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in paragraph 1 of this letter.

15. The appellant is now invited to submit details of those costs to London Borough of Havering Council, with a view to reaching an agreement on the amount. A copy of this letter has been sent to them.

Yours faithfully

E. R. Humphrey

ELIZABETH HUMPHREY
Authorised by the Secretary of State
to sign in that behalf