



Costs Decision

Site visit made on 17 March 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Costs application in relation to Appeal Ref: APP/U5360/C/24/3337599

74 Powerscroft Road, Hackney, London E5 0PP

- 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 the Council of the London Borough of Hackney for a partial award of costs against Mr Ajit Singh.
 - The appeal was against an enforcement notice alleging without planning permission, the construction of an outbuilding.
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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 Council sought an award of their costs in the appeal on substantive grounds. This initially referred to seeking a full award. However, in view of the focus on grounds (c) and (f) and the Council's subsequent confirmation that costs were not being sought in relation to the ground (a) appeal, I have treated the application as seeking a partial award.
5. In summary, the Council's case is that by separately making an application for express planning permission the appellant is aware that the outbuilding is not granted planning permission by the GPDO². The Council contended that, in view of this, the appeal made on grounds (c) and (f) had no reasonable prospect of success.
6. The PPG in paragraph 053 explains that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them on substantive grounds if the appeal or ground of appeal had no reasonable prospect of succeeding. This includes where the development is clearly not in accordance with the Development Plan, and no other material

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

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. This paragraph also confirms that in enforcement appeals, the onus of proof on matters of fact is on the appellant.

7. Appealing on grounds (c) and (f) following submission of a planning application and/or making an appeal on ground (a), is not inherently unreasonable. Whether a development is permitted by the GPDO can be open to interpretation. The appellant set out a detailed case in the ground (c) appeal, assessing the outbuilding against the relevant provisions of the GPDO. Their statement referred to relevant case law concerning the application of permitted development rights to the appeal property. The statement clearly explained how the appellant had interpreted the GPDO. An appeal decision which the appellant considered lent support to their case was supplied. That it was necessary to scrutinise the appellant's interpretation at some length points towards the ground (c) appeal as not being entirely unfounded.
8. I do not share the appellant's interpretation of the GPDO as applied to the outbuilding and the ground (c) appeal did not succeed. However, failing to discharge the burden of proof is not, in itself, unreasonable. The matters raised under the ground (f) heading also required scrutiny as part of the ground (a) appeal, given the degree of overlap with planning merits considerations.
9. Besides, it is not inherently unreasonable for an appellant to seek to safeguard their position and optimise the chances of a more favourable outcome, by making an appeal on a number of the different grounds set out in s174(2) of the Act. The risk of an appeal failing entirely can be reduced where, in the event of a lack of success on one or more of the 'legal' grounds (which include ground (c)), the opportunity to obtain planning permission through a ground (a) appeal is also explored. If that were to be considered unreasonable, then it could also apply in many other appeals where grounds (a) and (f) are pursued in addition to one or more of the legal grounds. Appellants should not feel deterred from exercising their right of appeal by the prospect of having to defend a costs application for pursuing the grounds they consider most suited to achieving a more favourable outcome. That is provided their case is, as in this instance, supported by a relevant body of evidence.
10. Consequently, I do not share the Council's view that the appeal made on grounds (c) and (f) had little reasonable prospect of success. In my opinion, whilst ultimately the appeal was dismissed and the notice upheld, the appellant's evidence substantiated their case in relation to both grounds.
11. Since the appellant has not acted in a manner similar to the examples of unreasonable behaviour relating to the substance of the matter at appeal in the PPG, or in any other way which might be so construed, the Council has not been put to unnecessary additional expense in preparing written evidence to defend the appeal made on grounds (c) and (f). It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

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

Stephen Hawkins

INSPECTOR