



Costs Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 13th May 2026

**Costs application in relation to
Appeal Ref: APP/N5090/C/25/3358859
32 Marlborough Avenue, Edgware HA8 8UT**

- 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 Ariel Mozes for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was made in respect of an enforcement notice relating to the construction of front and side boundary walls with associated piers.

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 basis for the claim for costs is that the Council acted unreasonably by not issuing a Planning Contravention Notice (PCN) prior to the issue of an enforcement notice and not contacting the applicant to seek to resolve the breach outside of the appeal. The applicant expected contact to be made before the Council proceeded to issue an enforcement notice to find a way to resolve matters in a less costly manner either informally or by submitting a planning application for retention and alterations to the front boundary treatment.
4. The applicant also refers to the type of behaviour giving rise to a substantive claim. This includes unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. (Paragraph: 049 Reference ID: 16-049-20140306)"

The lack of a PCN

5. The PPG (Enforcement section – Planning Contravention Notices) states that a PCN *"is a discretionary procedure – the local planning authority need not serve a planning contravention notice before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action. (Paragraph: 015b Reference ID: 17b-015-20140306)"*.

6. The PPG confirms that enforcement authorities are entitled to proceed directly to an enforcement notice where they consider they already possess sufficient information about the alleged breach. The Council was satisfied that the development which includes boundary treatment to the front and sides of the appeal site had been erected and there was no planning permission in place. In those circumstances, a PCN was not necessary.

Absence of any communication prior to service

7. A letter was sent to the applicant prior to the service of the notice inviting a retrospective planning application or demolition within 28 days of the date of the letter. In the absence of a response, the Council issued the enforcement notice. The applicant indicates that the letter was not received as the appeal site was a building site and the Council should have emailed the agent who dealt with the 2022 planning application.
8. The applicant's agent states that this approach has been taken by the Council on other occasions to ensure that PCNs are received. However, the Council was not sending out a PCN. The Council was satisfied that a breach of planning control had occurred and did not require further information about the breach. The Council was giving the applicant an opportunity to remove the development or submit a planning application. The Council is not required to check its files to find alternative ways to contact the applicant or to make repeated attempts in the absence of a response. It is unlikely in enforcement cases that everyone will respond. If it was not practically possible to receive any post at the applicant's home, then that was a matter for the applicant to address to ensure post was delivered.

Preventing or delaying development

9. The example relied upon by the applicant from the PPG refers to preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The appeal included an application for planning permission under ground (a) which has been dismissed. The development does not comply with the development plan and does not fall within the example referred to.

Conclusion

10. The service of a PCN is discretionary not obligatory. It was not unreasonable for the Council to only write to the applicant at the address where the development was located prior to the service of the notice. The ground (a) appeal failed and delaying or preventing development which should clearly be permitted did not occur.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Griffin

INSPECTOR