



Costs Decision

Site visit made on 14 April 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th May 2026

Costs application in relation to Appeal Ref: APP/N5090/C/24/3349176

8 Flower Lane, London NW7 2JB

- 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 Dr Samir Jagsi for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against an enforcement notice alleging without planning permission, the construction of a single storey rear conservatory and a rear outbuilding.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 applicant contends that the Council did not effectively investigate the breach and neglected the opportunity for resolution with the applicant. As a result, the applicant seeks full costs due to the Council's unreasonable behaviour, resulting in wasted expense in the appeal process. The applicant highlights that the Council is required to have more than just a suspicion of a breach to initiate enforcement proceedings; it should have assessed whether taking action was expedient, which they failed to do by not conducting a site visit. Furthermore, the applicant is critical of the assessment regarding the alleged harm caused by the developments in question. It is contended that the harm cited is flawed, as it lacks a basis in a detailed visual inspection of the development and does not demonstrate significant harm to the surrounding area.
4. The Council indicated that it attempted to engage with the owner and occupier of the appeal site regarding the as-built structures by sending a letter before issuing the Enforcement Notice (Notice). However, the applicant failed to respond and did not allow access for a site visit, limiting the Council's ability to gather information beforehand. The Council maintains that a thorough assessment was conducted and that the substantial reduction in the site's garden size has resulted in significant planning harm, justifying the issuance of the Notice.
5. The PPG advises that for enforcement action, local planning authorities must carry out adequate prior investigation. They are at risk of an award of costs if it is concluded that an appeal could have been avoided by a more diligent investigation that would have

- either avoided the need to serve the notice in the first place or ensured that it was accurate¹.
6. The Council has suggested that the applicant was unresponsive to communications before the issuing of the Notice. However, only a single letter has been provided as evidence of the Council's attempted engagement. The letter does not seek to visit the property to investigate the complaint and view the unauthorised structures. The correspondence provides limited details of the investigation that is said to have been undertaken and how the Council concluded that the structures were development that amounted to a breach of planning control that requires planning permission.
 7. It is acknowledged that the applicant did not respond within the timeframe specified in the letter. However, beyond the single attempt to contact the occupier, there is a clear lack of evidence indicating that the Council attempted site visits or took more formal steps to gather additional information about the structures in question. For instance, the Council could have attempted to access the premises or issued a Planning Contravention Notice before deciding whether the structures constituted development that required express consent. This would have ensured accuracy in the alleged breach and a more thorough assessment of the impacts of the development before determining if it was appropriate to pursue formal enforcement action.
 8. For the Council to issue the Notice without thoroughly exploring all areas of investigation to clarify what the structures were and whether they are development that requires express consent is unreasonable behaviour. While Inspectors have powers to correct Notices, to do so in this case would have led to injustice and procedural unfairness, as outlined in the accompanying appeal. Therefore, after acknowledging the inaccuracies in the Notice, the Council's decision to continue the appeal as an effective resolution was mistaken. Ultimately, the decision resulted in unnecessary expenses and wasted costs for the applicant during the appeal process.
 9. The above demonstrates a lack of thoroughness by the Council when undertaking the investigation into the complaint. Ultimately, the Council's decision to take formal action without accessing the property or by using statutory investigatory tools was a significant factor that contributed to the inaccuracies in the Notice. As such, in my judgement, a more diligent investigation would have either avoided the need to serve the Notice in the first place or ensured that it was an accurate Notice that avoided unnecessary and wasted expense for the applicant in the appeal process.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, and a full award of costs is therefore warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Barnet shall pay to Dr Samir Jagsi, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

¹ Paragraph: 048 Reference ID: 16-048-20140306 (Revision date: 06 03 2014)

12. The applicant is now invited to submit to the Council of the London Borough of Barnet, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

M. P. Howell

INSPECTOR