



Costs Decisions

Site visit made on 5 May 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Costs application in relation to Appeal A Ref: APP/G5180/C/24/3348359

111 Poverest Road, Orpington BR5 2DZ

- 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 Knapmill Estates Ltd for a full award of costs against the Council of the London Borough of Bromley.
- The appeal was against an enforcement notice alleging without the required planning permission, the material change of use of the land from a dwellinghouse (class C3) to a house in multiple occupation (class C4).

Costs application in relation to Appeal B Ref: APP/G5180/C/24/3348361

111 Poverest Road, Orpington BR5 2DZ

- 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 Knapmill Estates Ltd for a full award of costs against the Council of the London Borough of Bromley.
- The appeal was against an enforcement notice alleging without the required planning permission, the erection of a hip to gable roof extension and rear dormer to create habitable accommodation.

Formal Decisions

Appeal A

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

Appeal B

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

Reasons

3. 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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeals.
4. Paragraph 049¹ of the PPG highlights the examples of unreasonable behaviour by Local Planning Authorities (LPA) where costs can be awarded. The applicant has submitted that the LPA has acted unreasonably under Appeal A in that they were unable to fully access the accommodation offered at the appeal site. Consequently, the reason for issuing the enforcement notice were based on vague, generalised or inaccurate assertions about the development, which were unsupported by any objective analysis. Furthermore, the applicant has questioned the expediency of taking enforcement action.

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

5. With regard to Appeal B, the applicant contends that the LPA has acted unreasonably by issuing an enforcement notice against a development that had not occurred, matter of fact; did not require planning permission and/or should clearly have been permitted and thus avoided an appeal. I shall address these appeals in turn.
6. With regard to Appeal A, the LPA carried out investigations, a site visit and took photos prior to serving the enforcement notice. I have been furnished with a delegated report which provides information as to why the authority considered a breach of planning control occurred, and why they considered it expedient to take formal enforcement action. The report indicates that the site was subject to an Article 4 Direction, and an alleged material change of use had occurred in breach of the directive, alongside alleged unauthorised operational development. However, I have not been supplied with evidence that highlights whether the LPA were able to visit the site internally, despite the photographic evidence showing the officers had been to the site. Therefore, I would acknowledge that the LPA report is somewhat limited.
7. Nevertheless, the onus of proof lays with the applicant to show that on the balance of probabilities, the change of use to a house of multiple occupation (HMO) had occurred prior to the Article 4 Direction coming into force. As part of the appeal the applicant has supplied suitable evidence in the form of various Assured Shorthold Tenancy Agreements and Leases, bank statements, invoices and electrical installation certificates. Consequently, based on the evidence supplied with the appeal I have been able to reach an alternative conclusion to the LPA, finding that the HMO use commenced prior to the Article 4 Direction. Thus, planning permission was not required.
8. Whilst I reached this alternative view, this was predicated on the evidence before me at the appeal stage, which does not appear to have been provided to the LPA prior to the enforcement notice being served. Nevertheless, I am satisfied that the LPA advanced a case, in the form of their delegated report and appeal statement, that in their opinion, indicated why the change of use constituted a potential breach of planning control. In my view, based on the evidence at the time, these were not vague, generalised nor inaccurate, albeit I disagreed with their eventual findings. Therefore, I cannot conclude that the Council had behaved unreasonably in respect to Appeal A.
9. In regard to Appeal B, I note that the applicant alleges that the description of works in the notice directed at the operational development are erroneous, as they referred to developments that had not taken place. The LPA have accepted that this is a mistake, indicating it was a drafting error on the notice in their appeal statement. I have been presented with no evidence which would lead me to conclude that this was anything other than a simple drafting error by the LPA. Moreover, I found that despite the minor drafting error, which I have corrected without causing injustice to either party, the requirements of the notice were sufficiently clear.
10. Following the correction, I found the breach of development had occurred as a matter of fact. Furthermore, the development did not benefit as permitted development under the relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). I also found Appeal B failed under ground (a) as the roof extension was unsympathetic to local

character. The roof extension was therefore considered contrary to the relevant policies of the Local Plan and the National Planning Policy Framework which formed the LPAs development plan at the time of its decision.

11. The decision to serve an enforcement notice is one which is a matter of judgement, in this case based on the LPA's assessment of the effect of the development on character and appearance. I am satisfied that the LPA has shown that it undertook an appropriate assessment of the planning merits of the development as built, and adequately substantiated their reasons for serving the notice, in accordance with the relevant policies.
12. Consequently, in respect to Appeal B, I am unable to conclude that the LPA behaved unreasonably, as the costs incurred by the applicant in pursuing the appeal, were the normal costs arising when the right of appeal is exercised. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the LPA, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified for Appeal B
13. Overall, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted for either Appeal A or Appeal B.

Robert Naylor

INSPECTOR