



Costs Decision

Site visit made on 23 June 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2026

Costs application in relation to Appeal Ref: APP/N1920/C/25/3367903 42 Rutherford Close, Hertsmere WD6 5RZ

- 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 Mr Michael Firestone for a full award of costs against Hertsmere Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission, the change of use from a residential dwelling (Use Class C3) to a commercial short-term let operation (Sui Generis).
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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) appeals chapter 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 Courts.¹ It goes on to explain 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 applicant sought an award of their costs in the appeal on what I consider to be substantive grounds. The application was made in writing, in accordance with the PPG at paragraph 035. The applicant's case is that their written submissions made in respect of the appeal demonstrate that the Council's decision to issue the notice was unreasonable as there has been no material change of use.
5. At paragraph 049, the PPG advises that a Council is at risk of an award of costs where they behave unreasonably with respect to the substance of the matter at appeal, including by unreasonably defending an appeal. Amongst the non-exhaustive list of examples where such circumstances might arise are failing to produce evidence to substantiate reasons for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact which are

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

unsupported by any objective analysis and not reviewing their case promptly following the lodging of an appeal, as part of sensible on-going case management.

6. There is little firm evidence before me to support the applicant's claim of unreasonable behaviour on the Council's part. Although the Council did not submit a written statement of case, the contents of the officer delegated report provided a sound basis for concluding that a material change of use had occurred in this instance. The Council clearly took established case law² into account. The evidential burden in respect of showing why the ground (c) appeal should be allowed and the notice quashed rested with the applicant. Ultimately, following consideration of all the available evidence I shared the Council's conclusions.
7. Accordingly, I find that the Council's actions in the appeal have not been similar to the examples of unreasonable behaviour relating to the substance of the case at appeal referred to above, or that they have otherwise acted unreasonably. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

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

Stephen Hawkins

INSPECTOR

² *Moore v SSCLG & Suffolk Coastal DC* [2012] EWCA Civ 1202