

Costs Decision

Site visit made on 17 July 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 30 July 2026

Costs application by Mr A Arif in relation to appeal ref: APP/C5690/X/25/3360589 No. 119 Waters Road, London SE6 1UH

- The application was 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 was made by Mr A Arif for an award of costs against the London Borough of Lewisham Council.
- The appeal was made under section 195 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991 against a refusal by the London Borough of Lewisham Council grant a certificate of lawful use or development, (LDC).

Decision: The application for an award of costs is refused.

Application - submissions made by Mr Arif

1. The Appellant, Mr Arif made a claim for an award of costs against the London Borough of Lewisham Council on the basis that their decision to refuse the application was unreasonable. The decision caused him to incur unnecessary costs. The Council had no evidence to contradict the Appellant's submissions.
2. Evidence of the Council's failings included that the Council's reason for refusal was unsubstantiated on the basis of the submitted plans. The Council behaved inappropriately by not assessing the application in line with legislation and giving material weight to external factors that did not form part of the application's assessment.
3. Based on the Council's actions the Appellant incurred the following costs: costs relating to the submission of a new application for the same scheme. That included costs paid to consultants for a view on the Council's decision prior to resubmission.
4. The Appellant incurred costs associated with preparing an appeal statement, the application and the costs paid to the agent for time spent.
5. The Appellant incurred costs from loss of revenue due to being unable to implement the project in the scheduled time because of the Council's refusal. It resulted in rent being paid for the property while it was not usable. The Appellant would not be able to secure the appropriate license for the property without the relevant planning consent. The Appellant incurred costs from delays to the renovation works as builders were unable to proceed with the works following the refusal.

Response by the London Borough of Lewisham Council

6. The Council were certain they made a correct interpretation of the legislation for the reasons set out in the refusal reason on the decision notice and in their appeal statement.
 7. At the time of the application, the information provided by the Applicant did not include sufficient verifiable evidence to confirm that the rear outrigger was or was not an "original" part of the dwellinghouse. While the existing and proposed plans, (WTR-101 to WTR-106), were helpful, they did not contain adequate historical information or records to definitively establish the original footprint of the dwellinghouse.
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8. The Council has not displayed unreasonable behaviour and had caused no unnecessary or wasted expense to the Appellant. Both tests needed to be satisfied before an award of costs could be made.

Guidance on Costs Applications

9. Irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result.
10. Costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process - PPG para 030.
11. Unreasonable procedural behaviour may include failure to meet deadlines, failure to attempt to resolve statements of common grounds. Unreasonable substantive behaviour includes running points which have no legal basis or substantive points with no evidence. Unreasonable behaviour must have directly caused unnecessary or wasted expense. Such wasted expense should be identifiable or capable of being quantified.

Inspector's conclusions

12. The essence of the Appellant's claim for an award of costs against the Council was an argument on the merits of the LDC application appeal. It was not directly relevant to a costs application relating to unreasonable behaviour. The Parties failure to agree on the extent of the "original" dwelling at No. 119 Waters Road led to considerable effort to seek compliance with the limitations in Part 1, Schedule 2, Class A, A.1(j) of the Town and Country Planning (General Permitted Development) (England) Order 2015, even though the explanation of the consequence of each position was not comprehensively explained. Whichever position was adopted, it was not determinative. The correct position was as set out in the first instance in the Council's reason to refuse to issue a certificate of lawfulness.
13. The Appellant's application for an award of costs did not properly deal with the Council's behaviour during the appeal process. Most of the Appellant's submissions supporting the claim for an award of costs in this case were not relevant. They were more akin to a rehearsal of the LDC application's merit arguments.
14. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, was not demonstrated. An award of costs against the London Borough of Lewisham Council is not justified.

COSTS ORDER

15. No order as to costs is made.

John Whalley

INSPECTOR