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## Costs Decision

Site visit made on 12 May 2026

**by Felicity Thompson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 July 2026**

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### **Costs application in relation to Appeal A Ref: APP/N5090/C/24/3336932 and Appeal B Ref: APP/N5090/C/24/3340975**

#### **46 - 48 Woodstock Road, London NW11 8ER**

- 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 J H Ventures Limited for a full award of costs against the Council of the London Borough of Barnet.
  - Appeal A was against an enforcement notice alleging the material change of use of the property by way of the further subdivision beyond the approved 8 self-contained flats to provide additional self-contained residential flats.
  - Appeal B was against an enforcement notice alleging without planning permission, the use of 46-48 Woodstock Road as an aparthotel (Class C1).
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### **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. In their application for costs the applicant stated that they were seeking a partial award however, it is evident they are seeking costs for only one of the appeals and that is what is meant by partial. Their application being made on the basis that the Council issued two enforcement notices alleging breaches of planning control which were mutually exclusive and which led to wasted expense in submitting and dealing with two appeals.
4. The Council maintained that the development subject of Appeal A has occurred. In broad terms, their case for issuing the second notice (Appeal B) was that if an alternative view was taken about the use, then this would save time and money.
5. The PPG says 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 more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate."
6. From the evidence, it seems that an enforcement officer from the Council visited the site on three occasions 4 May 2023, 15 May 2023 and 22 May 2023, with access gained to the interior of the main building on the latter two occasions. It is unclear if the officer was given access to the interior of each of the units.

7. However, a Planning Contravention Notice (PCN) was also sent to the applicant, at various addresses, on 13 June 2023, to which it appears there was no response. A final letter was sent to the applicant on 21 August 2023 requesting that they make known any interested parties that should receive a copy of the enforcement notice impending for the site. No response was received.
8. Based on the above, it seems to me that the Council made reasonable attempts to investigate the matter in the first instance, undertaking several site visits and issuing a PCN, with which the applicant failed to engage. It seems that it was only after the first notice (Appeal A) was issued that the applicant contacted the Council, disputing the allegation.
9. In the case of Appeal A, the allegation does not specify the number of flats created and in their appeal submissions the Council stated there are between 32 and 36 dwellinghouses (flats), despite the Council's description in the PCN referring to 25 flats. They also stated that there has not been any robust evidence submitted by the appellant, that proves that the 'whole' of the appeal site is used as short-term lets. This suggests that the Council were not clear how many units had been created and how they were all used.
10. However, in their response to the costs application, the Council maintained their position that the use was as flats. Although, as set out in my decision, I found the allegation to be inaccurate, the Council's view was not unreasonable and reflected a matter of planning judgement. Nor am I satisfied that this arose from a failure to undertake a diligent investigation. In my view, the Council made reasonable efforts to investigate the matter, but its enquiries were not assisted by the applicant. Accordingly, I cannot conclude that the appeal could have been avoided.
11. The second notice (Appeal B) was issued after the applicant contacted the Council and asserted that the use was as an apart-hotel. This appears to have been a precautionary measure in anticipation of a finding that the allegation in the first notice was incorrect. However, I have concluded that the Council did not act unreasonably in issuing the first notice. Given my decision, it is likely that the second notice would have been issued regardless and, therefore, Appeal B could not have been avoided.
12. Although I found the Notice subject of Appeal B to be invalid, the errors largely stemmed from the Council seeking to under-enforce and this was not unreasonable.
13. Considering all the above matters, in my judgment the Council has not behaved unreasonably so as to cause unnecessary or wasted expense. Consequently, an award of costs is not warranted.

*Felicity Thompson*

INSPECTOR