Planning Inspectorate

Costs Decisions

Site visit made on 25 August 2026

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 September 2026

Costs applications in relation to Appeal Ref: APP/G4620/C/25/3371483
48 Parsons Hill, Oldbury B68 9BS

- The applications are made under the Town and Country Planning Act 1990 (the 1990 Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- Application 1 is made by Mr Arshed Saddique for a full award of costs against Sandwell Metropolitan Borough Council.
- Application 2 is made by Sandwell Metropolitan Borough Council against Mr Arshed Saddique.
- The appeal was against an enforcement notice alleging: The erection of a two-storey side and rear extension built without planning permission in that the side extension has not been set-back at the first-floor level, contrary to plans approved under planning permission reference DC/23/67996. The first-floor rear elevation includes a glazed door which is contrary to plans approved under planning permission reference DC/23/67996.

Decisions- both applications

1. The applications for an award of costs are 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.

Application 1

3. The main thrust of the applicant's case is that the Enforcement Notice (EN) was served on the same day as the refusal of the planning application to retain the development, depriving them of the opportunity to test the merits of his case. Consequently, the applicant considers that they have been put to unnecessary and unreasonable expense of preparing a second appeal against the EN without first having the opportunity to exercise their legitimate right of appeal against the refusal of planning permission.

4. The Council has stated that the applicant constructed extensions to the dwelling that were substantially different to that which was granted planning permission in 2023[1] (the 2023 permission) and the Council warned the applicant that what was being constructed was unauthorised. It goes on to state that a planning application[2] was submitted to retain the development and that application was refused on 23 July 2025 (the 2025 refusal). The EN was issued on the same day but after the 2025 refusal had been made.

[1] Ref Nos. DC/23/67996.
[2] Ref No: DC/25/70619

5. Even though the applicant submitted appeals in respect of the 2025 refusal and the EN there should not have been unnecessary and wasted expense related to the appeal before me. This is because the applicant is professionally represented and therefore, they should have been aware that under sections 174(2A) and (2B) of the 1990 Act an appeal may not be brought on ground (a) in the circumstances stated in those sections of the 1990 Act. My substantive decision relates to the EN appeal on grounds (f) and (g) of section 174(2) of the 1990 Act. The Council's behaviour in issuing the EN, prior to the appeal in respect of the 2025 refusal being determined, was not unreasonable as it considered the development as built was unacceptable given that refusal.

6. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Application 2

7. The Council has stated that the respondent has acted unreasonably and appealed on grounds (f) and (g) only. The main thrust of the applicant's case in these respects is that the removal of the unauthorised development is the only fall-back position, and no evidence has been submitted relating to limited funds and the enjoyment of their home.

8. The respondent has submitted evidence in support of their ground (f) and (g) appeals. Furthermore, whilst a fall-back position is not entirely relevant to a ground (f) appeal, the applicant as a local planning authority, should be aware that section 173(4) of the 1990 Act states what the purposes of an EN are. These include *"(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land…".* As such, an extant planning permission is relevant to a ground (f) appeal as stated in the respondent's evidence. Additionally, in my substantive decision I have varied the requirements of the EN to require either the complete demolition of the development, or that the development shall be altered to comply with the terms and conditions of the 2023 permission with regards to the set back of its first floor from the front elevation of the dwellinghouse, the ridge height of its roof and the fenestration of its first floor rear elevation.

9. No detailed evidence in relation to the respondent's funds has been submitted nevertheless it is clear from the site visit that the internal spaces within the ground floor of the dwelling remain unfinished. Moreover, in my mind the respondent's evidence with regard to the enjoyment of their home has been made in relation to the unfinished state of the dwelling. Even though I have dismissed the ground (g) appeal the respondent's submission of that appeal cannot therefore be considered to be unreasonable behaviour.

10. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

D Boffin

INSPECTOR