



Appeal Decision

Inquiry held on 6 & 8 August 2024

Site visits made on 6 & 8 August 2024

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Date: 11 September 2024

Appeal Ref: APP/Q0505/C/24/3342331

Land at Charter House, 62-68 Hills Road, Cambridge, Cambridgeshire CB2 1LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr David Snaith, Unex Ltd, against an enforcement notice issued by Cambridge City Council.
- The enforcement notice was issued on 5 March 2024.
- The breach of planning control as alleged in the notice is Without planning permission and within the last 4 years, the unauthorised erection of a sculpture 'The Cambridge Don' as shown on Photograph 'A' on the Land (identified in blue on the attached plan) ("the unauthorised development").
- The requirements of the notice are (i) Permanently remove the unauthorised sculpture (as shown in Photograph 'A') from the land (outlined in blue on the attached plan); (ii) Restore the land to its former condition prior to the installation of the unauthorised sculpture – including, but not limited to, fill any hole in the grassed area resulting from the removal of the sculpture, foundations and plinth with top soil, then seed the area with grass seed; (iii) Remove all materials from the land resulting from the removal of the sculpture, its foundations and plinth.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matters

Background and Approach

1. This case relates to the siting of a sculpture, known as 'The Cambridge Don'. Cast in bronze, and almost 4 metres in height, it depicts a faceless figure in traditional academic clothing, including black and gold gown and mortar board cap. The figure is said to represent the late HRH Prince Philip, Duke of Edinburgh, in his role as Vice Chancellor of the University of Cambridge.
2. The land to which the notice relates, as outlined in red, is the Charter House site in its entirety, including the Charter House building itself, some 4-storeys in height, and its immediate external surroundings. The site targeted by the notice is situated within a broadly triangular, raised bank of grass, adjacent to

the junction of Hills Road and Norwich Street. The site is flanked by mature trees and is adjacent to the Charter House building.

3. In the week before the Inquiry commenced, the appellant relocated the sculpture to a position elsewhere within the Charter House site. The appellant explained that the new position for the sculpture, immediately adjacent to the front of Charter House, was simply to demonstrate the ease with which it could be moved, with a view to supporting the ground (c) appeal. During the course of the Inquiry the sculpture was relocated back to its original position on the site. I carried out separate visits, noting the sculpture in both positions.
4. Prior to the beginning of the Inquiry, I set out that, without prejudice to the ground (c) appeal, my assessment of the location of the sculpture, in relation to the deemed planning application (the ground (a) appeal), would be confined to its location as identified in the breach of planning control. For the avoidance of doubt this is the location identified in blue and in 'Photograph A' on the notice. It is common ground that at this location a concrete slab, approximately 1.4 square metres in area and some 10cm in thickness, has been created. The slab is below the surface of the soil and provides a level platform on which the sculpture is sited. Going forward, I refer to this feature in my decision as a 'plinth'.
5. I have considered whether, at the outset, corrections are required to the wording of the notice. Firstly, there is the question of whether the alleged breach of planning control should specifically include reference to the construction of the plinth, which the notice requires, amongst other things, to be removed. The significance and merits of the plinth were discussed in detail at the Inquiry and I am satisfied that this correction would not result in injustice.
6. Secondly, the Council seeks corrections to the wording, so that the notice requires the sculpture, as well as the plinth, to be permanently removed from the wider land, as outlined in red on the notice, and not just from the appeal site demarcated in blue. By contrast, the appellant's position is that if it was always the Council's intention for the sculpture to be removed from the wider land, then it must have made the assessment that it was not acceptable for it to be located anywhere within the entirety of that land. However, it says the Council has not provided evidence of any such broader assessment.
7. Notwithstanding the appeal on ground (c), I consider the Council is entitled to anticipate revisions, potentially very minor, to the detailed siting of a sculpture within a given site area, designed to defeat the operation of the notice, by enforcing against the wider area of land as a whole. If the notice is upheld, this would not prevent the appellant from applying for planning permission to relocate the sculpture, somewhere within the red line of the wider land, in the future. Thus I am also satisfied that the notice may be corrected in this way without resulting in injustice.

The Oath

8. Factual evidence to the Inquiry was given by the appellant, on Oath.

Application for costs

9. An application for costs was made by Mr David Snaith, Unex Ltd, against Cambridge City Council. This application is the subject of a separate Decision.

The appeal on ground (c)

Operational Development

10. The appeal on ground (c) is that the matters alleged do not constitute a breach of planning control, because the placing of the sculpture and construction of the concrete plinth do not comprise acts of "development" that require planning permission. The meaning of development is set out in s55(1) of the Act and includes the carrying out of building, engineering, mining or other operations in, on, over or under land.

The Sculpture

11. The Act states that for the purposes of this Act "building operations" includes (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. A building is defined in s.336 of the Act as including any structure or erection.
12. It is settled case law that the appropriate criteria for determining whether a structure constitutes a building are size, permanence and physical attachment¹. It is necessary to apply all three tests and to make a fact and degree assessment, with no one test necessarily being determinative.
13. In terms of size, the sculpture is some 3.9 metres in height and 1.5 metres at its widest point. It is undisputed that the structure weighs some 3,000kg. Although the sculpture was brought to the site in 'one piece', there is no dispute that it cannot readily be moved without specialist mechanical lifting equipment. At the Inquiry the appellant showed a video of the sculpture being relocated, by a transportation company, a relatively short distance within the site, using a lorry-mounted crane. This procedure lasted for around 1 hour and required the attendance of operatives to carefully oversee and guide movement of the structure between the different positions. Therefore, whilst the sculpture would not need to be taken to bits, or demolished, before being removed or relocated, from the evidence it nevertheless cannot readily be moved without mechanical intervention. I consider the structure to be of sufficient size that it could constitute a building.
14. With regard to permanence, this does not mean that a structure need be in place forever or indefinitely. It is common ground that prior to its recent relocation within the grounds of Charter House, the sculpture had remained in position since its original placement there in March 2023. Even though the appellant is said to have a policy of rotating artworks across sites within their control, has previously displayed the sculpture at other locations on Hills Road and could say they intend to move the sculpture more frequently in future, there is no evidence to suggest that its future relocation is probable. I am mindful that, whilst the sculpture was recently briefly relocated, this action was purely motivated with a view to demonstrating the ease with which it could

¹ *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102

be moved in order to support the appeal, rather than in connection with any rotation policy.

15. I consider the duration the sculpture has been in the same place, since being originally placed there in March 2023, means it has sufficient permanence to have a permanent character and to be regarded as a building. Furthermore, I also reach this conclusion in the knowledge that it would not be necessary to demolish or disassemble the sculpture before taking it away.
16. In terms of physical attachment, it is undisputed that the sculpture rests on the ground, supported by the aforementioned concrete plinth. It is not physically attached in any way to the ground or plinth. However, there is nothing that persuades me that the considerable inherent weight of the structure would not be sufficient to enable it to stand securely on the ground. Indeed the appellant's own technical evidence supports this conclusion. The structural engineering consultants refer to the significant mass of the structure making it resistant to tipping or sliding, whether due to wind loading or deliberate attack, without the use of a vehicle². There is no suggestion that prior to its recent relocation, the sculpture has been moved in any way on the site, either by natural or man-made interventions. In the alternative, I concur with the Council, that the presence of footings on the base of the sculpture indicate that the structure has at least been designed to be fixed to the ground.
17. As a matter of fact and degree, I therefore consider, having applied all three tests, that on balance the sculpture comprises a building, and conclude that it amounts to operational development (a building operation) having taken place. Accordingly, there has been development without planning permission and therefore a breach of planning control. The ground (c) appeal fails in relation to the sculpture.

The Plinth

18. As set out above the ground area covered by the concrete plinth is relatively small. I also accept that the works involved in installing the feature are unlikely to have amounted to a lengthy process. However, notwithstanding its limited scale, I still consider that a degree of skill would have been required to ensure the feature was sufficiently smooth and level to enable the sculpture to remain stable and securely placed. I therefore conclude, as a matter of fact and degree, that the provision of the concrete plinth amounted to a separate, but related engineering operation. It is also therefore an act of unauthorised development. It thus follows that the ground (c) appeal must also fail in relation to the plinth.
19. There was considerable discussion at the Inquiry as to whether siting the sculpture and creating the concrete plinth would comprise operations normally undertaken by a person carrying on business as a builder. However s.55 is clear that such operations are "included" in the definition of building operations. The list is not exhaustive. It is not therefore necessary or essential for an operation to be associated with a builder, in order to be a building operation. Nor is it necessary for work to be carried out by an engineer, in order for it to be an engineering operation.

² Format Engineers – Design Note dated 28 June 2024.

20. I have had regard to various appeal decisions referred to me by the appellant, in which Inspectors have dealt with the question of development. In those cases the structures varied in terms of nature, scale and means of affixation. However, the information provided is limited, and in any event the respective findings do not show my own findings in this case to be wrong, which I have reached following a fact and degree assessment. This is also true having regard to the various case law that has been referred to me regarding the question of operational development.

The appeal on ground (a)

Main issues

21. The appeal on ground (a) is that planning permission ought to be granted. The main issues are i) whether the sculpture complies with the Council's policies to create successful places, having regard in particular to public art; ii) the effect of the sculpture on the character and appearance of the area having regard to townscape and heritage assets, in particular the New Town and Glisson Road Conservation Area (CA) and nearby listed buildings and iii) the effect of the plinth on the visual amenity of the area.

Reasons

Public Art

22. Policies 25, 56 and 59 of the Cambridge Local Plan 2018 (LP) set out the Council's strategy for urban design within the part of the city where the appeal site is located. Collectively these policies seek development to be attractive and of high quality and for external spaces, landscaping and public realm to be effectively integrated into new development. The National Planning Policy Framework (the Framework) also aspires to the creation of high quality places. Policy 56 states that proposals should embed public art as an integral part of the proposals as identified through the Council's Public Art Supplementary Planning Document 2010 (SPD). Policy 59 seeks a co-ordinated approach to the design and siting of public art.
23. In this case the proposal is the artwork itself, rather than some broader form of development. However, as a matter of judgment, I can see no reason why this releases the sculpture from the policy requirements, namely to ensure that development is of high quality. The sculpture is development, as I have already determined, and its characteristics as a piece of public art are part and parcel of that development.
24. The Local Plan requires public artworks to be satisfactorily integrated, with the SPD providing guidance on how this is to be achieved, with quality in mind. In saying this, it is not for the decision maker to make subjective judgments about the aesthetic merits of the work, which will always be a matter of individual taste.
25. Turning then to the SPD, the document sets out that in order to achieve quality, projects must strive to show that a range of objectives can be met. These include the artistic quality; sensitivity and appropriateness to location and community; consultation with and defined public benefit to the community and technical viability. The Council accepted that these criteria need not be rigidly applied, but rather assessed in the round. The objective is to strive to

- meet them, not that they must be met. Nevertheless, they are the Council's indicators for achieving quality in public art.
26. The Council's position is that the sculpture fails when considered against several of the criteria. It says the educational theme of the sculpture is at odds with its location, because the appeal site is within the grounds of an office, and also not within part of the city where university buildings are concentrated. There is more to Cambridge than the University, it says; also the suggestion that the office may be connected with university graduates could be applied to any employment building.
27. The appellant, however, refers to the presence of academic buildings and developments elsewhere within the wider Conservation Area; to the past association of specific University colleges with housing development within the CA and notwithstanding this, emphasises the affinity of the sculpture's theme with the city's pre-eminent University reputation.
28. It seems to me that for a public artwork to be sensitive and appropriate to its location, those links must not be strained or tenuous, because that would risk allowing artworks in the public realm that simply indulge the artistic preferences of landowners. Even though the sculpture is on private land, it is in a prominent location, viewed by the public, and is to be regarded as part of the public realm in this assessment. This is consistent with the SPD³.
29. Related to this point, I consider that engagement with and input from the community in the design process is an important part of achieving stakeholder investment, and the quality of product aspired to. However, in practice, the sculpture has been placed without any such engagement at all. Despite a tenuous connection to the University, and the claim by the appellant that it is a 'gift' to the city, I am not therefore persuaded that the sculpture, in this case, is sensitive and appropriate to its location and community and can be regarded as a public benefit to that community or is consistent with the Council's place making objectives.
30. It therefore fails to demonstrate the appellant has striven to achieve the objectives at paragraphs 5.13(d), (f) and (g) of the SPD, which seem to me to be particularly concerned with successful place making. As such, it fails to achieve high quality design, in the public realm, and it follows that the development is not the high quality envisaged by Policies 56 and 59 of the LP. The development is therefore in conflict with these Policies, and I do not consider that conflict can be overcome by the imposition of planning conditions. Neither do I agree with the appellant, for the reasons set out above, that the Council's efforts to regulate this development are reminiscent of state overreach.
31. The appellant has referred to other sculptures within the city which lack association or connection with where they are positioned. However, I note that those connected with the so-called 'GoGo Discovery trail' were sited temporarily and have now been removed; also it is undisputed that the other examples cited pre-date the SPD. I am not persuaded that this establishes a precedent which weighs in favour of granting planning permission in this case.

³ The SPD states that Artwork provided within the private boundary of a site, but fully visible and can be enjoyed by the public, is also considered 'public'....

Nor do I do give weight based on the policies and record of other Councils for the placement of sculptures outside Cambridge.

Townscape and Heritage

32. The appeal site lies within the CA. Specifically, it is at the corner of Hills Road and Norwich Street. Hills Road forms one of the main arterial routes into the city centre. It is a well trafficked, linear route, with buildings that vary in terms of age, scale and design.
33. Norwich Street, by contrast, is predominantly comprised of long, visually uniform, Victorian residential terraces, with frontages up to the pavement edge. As set out above, the location of the proposed development is within a triangular area of grassed open space, flanked by mature trees and adjacent to the large office building known as Charter House.
34. I have had regard to the New Town and Glisson Road Area Conservation Area Appraisal 2012 (CAA). This document refers to the significance of the CA being found in its quiet, terraced residential streets and small number of large open spaces. The site forms a small and pleasant area of landscaped open space, within an otherwise heavily urbanised thoroughfare along Hills Road. It reads more as part and parcel of the Hills Road street scene, rather than the Norwich Street terraces, from which there is a strong degree of separation.
35. However, the space is not acknowledged within the CAA in terms of any valued contribution to the character or appearance of the CA, either in terms of architecture or history. By contrast, the study identifies Charter House itself as a building which actually detracts from the character of the CA. I have no reason to take a contrary view.
36. I consider that the mature trees, situated either side of the sculpture, serve to screen and filter views of this building from the south, thus providing a degree of visual relief. However, notwithstanding this, it seems to me that users of Hills Road would generally have a transient experience of the appeal site and its immediate surroundings, with eyes tending to remain focused on the busy and linear form of the route being travelled, rather than drawn by the scale and detail of buildings there.
37. Therefore, whilst it is common ground that the protected mature Lime tree on the corner of the appeal site is in very poor condition and health, and will need to be removed within the next ten years, the value of any replacement tree or trees as a foil to the building will be limited. In addition, because of the transient nature of Hills Road, I am not persuaded that the proposed sculpture competes for attention with the trees.
38. The sculpture is relatively tall, substantial in bulk, and situated in a prominent corner location, directly opposite a pedestrian crossing point at the eastern end of Norwich Street. Notwithstanding this, it is set back from the pavement edge, and in views from the south along Hills Road, appears to me to sit proportionately between the adjacent trees. It is seen in views from both the north and south along Hills Road against a backdrop of taller commercial buildings, which serve to assimilate its visual impact. It is sufficiently separated from residential dwellings on Norwich Street not to result in any strong sense of interruption to the visual cohesion of the terraces there.

39. For the above reasons I do not find the sculpture to be overbearing, to draw the eye unduly, or to obstruct any key views more than momentarily. The base of the sculpture (and plinth) occupies a relatively small proportion of the grassed open space on the street corner, and I do not concur with the Council that it significantly reduces the sense of openness or, in the context of street furniture along Hills Road, causes harm by way of additional clutter. To the extent that the sculpture does draw the eye, I do not accept the Council's argument that this serves to make Charter House a more prominent landmark, because I consider attention would be focused on the sculpture itself.
40. When approaching the site from Norwich Street, views of the upper parts of the sculpture would be substantially screened or filtered by the canopies of intervening mature trees. I do not agree that the sculpture results in visual harm from this perspective.
41. The detail of the human form of the sculpture is detectable only in outline, due to the length and folds of the gown and facial covering. However, my remit does not extend to considering the aesthetic merits of the work, and accordingly for the avoidance of doubt, I make no judgment on this specific issue.
42. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I conclude that the sculpture would not result in harm to the special interest and character of the CA as a whole. Rather the sculpture results in a neutral effect on the character and appearance of the CA, which accordingly would be preserved.
43. I have a further duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the setting of nearby listed buildings. The development known as Highsett, which is a Grade II listed building, is situated opposite the Norwich Street entrance. It comprises a three-storey development of flats, constructed around a landscaped internal courtyard. It seems to me that the special interest of this development derives from its age and design. The elements of setting that contribute to its significance include the relationship of the flats to the internal open space.
44. Despite intervisibility between the sites, I consider that the appeal site contributes little, if anything, to the significance of the Highsett development, or its setting, and there would be no harm in this regard.
45. The Church of Our Lady and the English Martyrs, situated at the junction of Hills Road and Regent Street, is Grade 1 listed. Whilst its distinctive spire makes it a recognisable landmark, viewed from the vicinity of the appeal site to the south, I am firmly of the view that the intervening distance between the two sites means that the sculpture does not result in any harm to that building's setting.
46. Drawing the above considerations together I conclude that the sculpture would not in itself result in harm to the character and appearance of the area, including the CA, or to the setting of nearby listed buildings. Accordingly, the development would conform with Policy 61 of the LP, and with the Framework,

insofar as they seek to conserve heritage assets in a manner appropriate to their significance. This however, does not overcome the negative assessment I have made above, in terms of compliance with the Local Plan policies in relation to urban design quality.

47. The appellant argues that granting planning permission for the sculpture would allow for public benefits to the CA, in the form of a landscaping scheme on the site, secured through the imposition of a planning condition. This, they argue, would improve existing landscaping provisions, through replacing the poor quality, deteriorating Lime tree and allowing for boundary hedging to replace a poor quality post and rail fence. The appellant says that such benefits should be afforded great weight, in accordance with guidance in the Framework.
48. There is disagreement between the parties as to the severity of decay affecting the protected Lime tree. The appellant considers, owing to its very poor state of health, that the tree meets the threshold for being classified a dangerous tree, and that it may therefore be felled without the consent of the Council, in accordance with the relevant regulations⁴. By contrast, the Council, whilst accepting it has a very limited lifespan, is not persuaded as to the severity of the tree's poor health or that it should be regarded as dangerous.
49. I am mindful that as a protected tree, if it were to be removed on grounds of being dead or dangerous, then a replacement would be required in any event under the regulations. Furthermore, I have concluded that the appeal site and its immediate surroundings do not make a valued contribution to the significance of the CA. Therefore, I am not persuaded the suggested landscaping improvements that might be attached to a grant of planning permission in this case would benefit or help preserve the CA, and attract the great weight referred to in the Framework. It would not be sufficient to outweigh the negative assessment I have made above.

Conclusion regarding the planning merits of the Sculpture

50. For the above reasons I conclude that the sculpture amounts to a development that is not of a poor enough standard to result in harm to the existing character and appearance of the townscape or to any heritage assets. However, for the reasons set out earlier in my decision, I find that it is not of good enough quality, as a public artwork, to comply with the Council's place making policies and objectives. Planning permission for the sculpture will therefore be refused.

Concrete Plinth

51. I have concluded above that the plinth constitutes a separate act of operational development to the sculpture. It occupies a small area, and is placed below the surface of the soil. It may or may not be possible to utilise the plinth at some time in the future to accommodate an alternative form of public art, subject to any necessary permissions. However, in the meantime it would be possible to cover the plinth with topsoil and grass to ensure that the site blends in with the surrounding landscaped space. Subject to this measure, I conclude this small development would not in itself result in harm to the visual amenity of the area. This matter is further addressed in the following section of the decision.

⁴ Town and Country Planning (Tree Preservation) (England) Regulations 2012.

The appeal on ground (f)

52. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173 (4) (a)) or to remedy injury to amenity (s173 (4) (b)). The Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
53. With regard to the unauthorised development, the objectives of the notice are to secure its removal and therefore to restore the land to its condition before the breach took place. It follows that the purpose of the notice is to remedy the breach of planning control.
54. I have found both the sculpture and plinth, constitute acts of development and that the sculpture should not be granted planning permission. It is not therefore excessive to require the sculpture to be removed. However, the plinth is below ground level and whilst the land would not be physically restored, it could be made to appear restored, simply by covering the plinth with soil and grass seed. Accordingly, I find that removing the plinth would be an excessive requirement and I shall therefore correct the notice to omit the requirement for its removal. The ground (f) appeal therefore succeeds to this extent.

Overall Conclusion

55. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with corrections, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

56. It is directed that the enforcement notice is corrected at paragraph 3 by the deletion of the wording describing the breach of planning control in its entirety and substitution of the following wording instead:
- “Without planning permission and within the last 4 years, the unauthorised erection of a sculpture ‘The Cambridge Don’ as shown on Photograph ‘A’ on the Land (identified in blue on the attached plan) (“the unauthorised development”) and the construction of a concrete plinth to support the statue.”
57. It is directed that the enforcement notice is corrected at paragraph 5 by the deletion of the wording describing the requirements in its entirety and substitution of the following wording instead:
- “(i) Permanently remove the unauthorised sculpture (as shown in Photograph ‘A’) from the land (outlined in red on the attached plan);
(ii) Restore the land to its former condition prior to the installation of the unauthorised sculpture – by filling any hole in the grassed area, resulting from the removal of the sculpture, with top soil, then seeding the area with grass seed;

(iii) Remove all materials from the land resulting from the removal of the sculpture.”

58. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Merrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Charles Banner KC
and Isabella Buono
They called:

Barrister
Barrister

David Snaith

Appellant

Dr Chris Miele

Townscape and Heritage Consultant

Simon Henry

Planning Consultant

Julian Forbes-Laird

Arboricultural Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranatunga
He called:

Barrister

Laurence Moore

Senior Planning Officer

Paul Robertshaw

Principal Conservation Officer

Nadine Black

Public Art Officer

Joanna Davies

Tree Officer

INTERESTED PERSONS:

Patricia Fara

Representing Norwich Street residents

Cllr Katie Porrer

Market Ward councillor

Jasper Green

North Newtown Residents' Association

Documents submitted at the Inquiry:

1. Opening submissions from the appellant and Council
2. Photograph of protected tree, showing pruning points
3. Photographs relating to plinth area.
4. Format Engineers – Design Note dated 28 June 2024
5. Appellant's Costs application

Documents submitted after the Inquiry:

1. Closing submissions from the appellant and Council
2. Council response and appellant's final comments regarding Costs application