
Costs Decision

Site visit made on 6 June 2025

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 June 2025

Costs application in relation to Appeal Ref: APP/K5600/W/25/3358374 61-65 Kensington Church Street, Kensington and Chelsea, London, W8 4BA

- 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 Bristol Properties for a partial award of costs against the Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of planning permission for 'Rear extension at first floor level to create additional office space'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The PPG also advises that a local planning authority is at risk of a substantive award of costs against them if they fail to produce evidence to substantiate each reason for refusal on appeal or persist in an objection to elements of a scheme which an Inspector has previously indicated to be acceptable.
4. The applicant's case in this instance only relates to the Council's first reason for refusal, which pertains to an alleged impact on the living conditions of the occupants of neighbouring properties through light glare and loss of outlook.
5. When considering a previous appeal¹ relating to a first floor office extension at the appeal site, the Inspector came to a clear conclusion that a harmful impact on the outlook from neighbouring properties would not occur. The appeal scheme before me includes an extension of the same volume and therefore the previous Inspector's findings are highly material. One difference between the two appeals is the use of blades, but these would not significantly add to the massing of the proposed extension. Consistency in planning is important so like applications should be considered alike. Despite this, the Council refused the extension due to an impact on outlook. The Council did not advance an argument that anything had significantly changed on the ground or in respect of planning policy. A tree has been felled since the previous decision, but the Council did not rely on this. Accordingly, the Council has unreasonably persisted in objecting to an element of a scheme which an Inspector has previously indicated to be acceptable.

¹ Appeal reference APP/K5600/W/23/3321981

6. The Council also raised concerns about the impact of glare. Policy GB10 of the Local Plan² (LP) highlights this as a consideration. The supporting text to this policy explains that the Council will require lighting assessments to demonstrate compliance with this policy and that it will use the relevant professional standards, such as those set out by the Institute of Lighting Professionals (ILP), as a guide to assess light impacts. The applicant provided a lighting assessment with their appeal informed by relevant professional standards. It demonstrates that glare from the appeal scheme would be below recommended maximums.
7. The Council failed to provide a substantive rebuttal of the assessment, relying instead on an argument that it misquoted policy and referred to technical guidance from another borough. The Council did not explain why, in their view, this would undermine the methodology or core findings of the assessment. On the contrary, in a practical sense the assessment is grounded in the requirements of Policy GB10 and its supporting text despite referring to Policy CL5 of the superseded Local Plan. Furthermore, the Council's Environmental Health Officer did not object, and it has not provided any technical evidence. Ultimately, the Council's submissions on this point were so weak that it unreasonable failed to substantiate a reason for refusal.
8. The Council submits that they did not act unreasonably as it was within the scope of their planning judgment to refuse the application. This is correct to an extent, but planning judgment needs to be exercised reasonably. That was not the case here for the reasons I have already outlined. The Council also suggest that the overall decision to refuse the application due to the impact on living conditions was informed by the lack of a Planning Fire Safety Strategy. As outlined earlier, the PPG is clear that each reason for refusal should independently stand up to scrutiny and this is not the case with the Council's first reason for refusal. The applicant was put to unreasonable expense in having to address the first reason for refusal through the appeal system.
9. Accordingly, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's first reason for refusal and a partial award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Royal Borough of Kensington and Chelsea shall pay to Bristol Properties, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Royal Borough of Kensington and Chelsea, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Graham Chamberlain
INSPECTOR

² New Local Plan Review July 2024

