



Costs Decision

Site visit made on 15 July 2025

by Matthew Nunn BA BPI LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2025

**Costs application in relation to Appeal Refs: APP/L5810/W/25/3359003 & APP/L5810/Y/25/3359036
59 Petersham Road, Richmond, TW10 6UT**

- 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 Mr J Earle for a partial award of costs against the Council of the London Borough of Richmond.
- The appeals sought permission for 'demolition of two storey rear extension with balcony platform and steps; demolition of existing front steps that lead from driveway to garden level; proposed part single and part two storey rear extension; proposed front lightwell (where existing steps from driveway to garden level are located) with windows at garden level, new helical steps from the driveway and associated alterations; internal reconfiguration / additions'.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) states that parties in appeals normally meet their own expenses. The PPG also advises that, irrespective of the outcome of the appeal, costs may only 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. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has also resulted in unnecessary or wasted expense.
3. The PPG states that costs applications may relate to events before the appeal or other proceeding was brought, but costs that are unrelated to the appeal are ineligible; importantly, the PPG highlights awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission¹.
4. The PPG also makes clear that costs cannot be claimed for the period during the determination of the planning application. The PPG states that whilst costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be

¹ PPG Paragraph: 032 Ref ID: 16-032-20140306

awarded².

5. The Appellant's costs application broadly has two aspects: (1) the failure to provide adequate pre-application advice, resulting in multiple unsuccessful applications being made; and (2) concerns relating to the processing of the planning and listed building applications. I deal with these in turn.
6. *Pre-application advice*: it appears that pre-application advice was provided by the Council in February 2021 in relation to wide ranging works proposed at the listed building. The Council's response noted that substantial alterations were proposed, many of which could not be supported because of the potential loss of historic fabric and significance of the listed building. A further pre-application request was made in March 2023, which was initially withdrawn, but was then 'reopened' again in June 2023³. I understand the pre-application request was ultimately declined by the Council for the reasons explained below.
7. Both the pre-application requests predate the current applications subject of appeal by some margin. Indeed, a number of planning and listed building applications have been submitted in the intervening period, including a scheme dismissed at appeal earlier this year⁴. Notably, no costs application was made in respect of those appeals, notwithstanding that the Appellant's complaints regarding pre-application advice would presumably apply equally to those cases. Neither is it clear that the requests for pre-application advice directly relate to the scheme before me. All this does raise questions as to whether the Appellant's concerns fall within the scope of a costs claim in relation to these current appeals. I shall nonetheless consider whether the Council's behaviour has been unreasonable.
8. Local Authorities are encouraged to provide pre-application advice to assist applicants with prospective planning applications, to ensure schemes are broadly compliant with policy requirements, and to seek to resolve issues associated with a development⁵. Importantly, however, it is a discretionary service⁶, and a matter for the Council how it is provided. Furthermore, any pre-application advice provided cannot pre-empt the formal decision making processes of the Council⁷. The nub of the Appellant's complaint is that it wanted a different Conservation Officer assigned for the pre-application advice requested in 2023 because of 'previous experiences'. I understand formal complaints were made in 2023 by the Appellant to the Council about the conduct of Officers in the Planning Department, as well as the Conservation Officer. These complaints were investigated by the Council, but were not upheld⁸. It is not for me to re-investigate those matters as part of this costs claim⁹.
9. I consider that the Council is best placed to decide which officers provide advice to potential applicants, having regard to the type of case and expertise

² PPG Paragraph: 033 Ref ID: 16-033-20140306

³ I understand the Council initially advised it was prioritising live planning & listed building applications at the property ahead of any further pre-application advice; the Appellant's agent initially withdrew the pre-application request because of the potential longer timescales, but then requested it be 're-opened' subject to a satisfactory timescale.

⁴ APP/L5810/W/24/3352286 & APP/L5810/Y/24/3352292, dismissed 8 April 2025

⁵ PPG Paragraph: 001 Ref ID: 20-001-20190315

⁶ PPG Paragraph: 004 Ref ID: 20-004-20180222

⁷ PPG Paragraph: 011 Ref ID: 20-011-20140306

⁸ Stage 1 & Stage 2 Complaint, dated August and September 2023

⁹ Dissatisfaction with the Council's complaints procedure can be investigated by the Local Government and Social Care Ombudsman, subject to certain limitations

required, including on conservation matters. Given the importance of transparency and impartiality in decision making, it would be quite inappropriate for applicants to dictate which Council Officers deal with their applications or other requests for advice. It appears that the Council was prepared in principle to provide pre-application advice in 2023, specifically stating the wish to engage positively¹⁰, but the Appellant was not willing to engage on the Council's terms, or to allow the Conservation Officer access to the site. The Council subsequently declined the pre-application request and refunded the fees. On the evidence before me, whilst it was regrettable pre-application advice could not be provided, I do not consider that the Council behaved unreasonably in this regard.

10. *Processing of the applications*: various complaints are made including: the refusal of the scheme on the basis of issues not previously identified; that the Council is 'moving the goal posts'; the inability to get feedback during the processing of the planning and listed building applications; the failure to request additional information if it was needed; and the level of information requested was unreasonable.
11. In terms of the Council introducing new issues and 'moving the goalposts', the Appellant has made a significant number of applications for planning permission and listed building consent in recent years, each differing in design and scope. The precise details of each scheme are not before me, nor how they differ from one another. Hence, I cannot say with certainty whether new issues have been unreasonably introduced. It seems to me, though, that the Council is entitled to identify aspects that are considered unacceptable for each application before it. It is inevitable, therefore, that refusal notices and issues raised will differ in their precise terms and scope depending on the differing nature of works proposed. Clearly, it would have been preferable if any problems had been ironed out at pre-application stage. However, on the evidence before me, I see no substantive evidence of unreasonable behaviour in this regard.
12. The Council advises in its validation letter that the case officer may contact applicants if minor changes are required to make a proposal acceptable, but if there is a substantial objection then a refusal notice may be sent without prior contact; and amendments are not generally accepted on an unacceptable scheme¹¹. It seems to me that, although the refusal grounds do refer to a lack of information, there are other specific reasons why the Council found the scheme unacceptable. These would have required a redesign. I am not persuaded that even if additional information had been sought and provided, it would have alleviated the Council's concerns about various aspects of the appeal proposal, either internally or externally, nor that the imposition of conditions could have made the scheme acceptable. As such, I am not persuaded that permission and consent would have been forthcoming, nor the need to go to appeal avoided.
13. The Appellant complains that unnecessary levels of detail were requested. Listed building consent is required for all internal and external works that have the potential to affect the special architectural or historic interest of a building. It is therefore not uncommon for Councils to request a higher level of detail to enable a proper assessment to be made. I do not find this intrinsically

¹⁰ Email dated 6 July 2023 from Nicki Dale

¹¹ Extract in Council's Stage 1 Response

unreasonable.

Conclusion

14. In conclusion, I acknowledge the Appellant's frustration regarding the various matters above. However, I do not consider the Council has behaved unreasonably, or that costs should be awarded in this case.

Matthew Nunn

INSPECTOR