Planning Inspectorate

Costs Decision

Site visit made on 22 October 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2025

Costs application in relation to Appeal Ref: APP/N5660/W/25/3371954
32 Brixton Road, Lambeth, London SW9 6BU

- 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 Azriel Asher for a full award of costs against the Council of the London Borough of Lambeth.
- The appeal was against the refusal of planning permission for the change of use from commercial space (Class E) to residential two flats (Class C3).

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. The applicant states that the refusal of prior approval was unreasonable. Firstly, they state that the Council made a clear error in law in relation to their assessment of Condition G.1(b) of Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

4. Secondly, the applicant states that the Council failed to impose conditions to address potential contamination risks under G.1(d)(i); and to mitigate potential noise impacts under G.1(d)(iii). They state that this approach was inconsistent with other comparable schemes[1] which were approved by the Council and subject to conditions in relation to these matters.

5. In summary, the applicant alleges that the refusal was unjustified and has directly resulted in the appellant incurring unnecessary appeal costs. The Council has not provided a response to the application for costs.

6. Although I have found in the applicant's favour in relation to the interpretation of Condition 3.1(b) of the GPDO, it does not necessarily follow that the Council's interpretation was an unreasonable one. The GPDO does not provide any specific guidance on how this should be interpreted, and it is therefore a matter of planning judgment. Whilst I did not agree with the Council on this matter, I do not consider that the Council acted unreasonably such that unnecessary or wasted expense has been incurred.

[1] Application Refs: 22/03092/P3G, 23/01249/P3M and 25/00634/P3G

7. In respect of contamination, there were no details submitted with the application to assess the likely risks from contamination. However, the proposed development relates to the conversion of the upper floors into residential accommodation. As I have set out in my appeal decision, I am satisfied that the contamination risk is low and would be capable of being dealt with by imposition a condition that in the event that contamination was found that further details would be required to be submitted to the Council for approval. Whilst these findings do not align with the Council's position, the Council exercised their own judgment in relation to whether this condition was met. Therefore, I find that this does not amount to unreasonable behaviour which has led to unnecessary or wasted expense.

8. However, as set out in my decision, in the absence of any noise assessment or similar evidence, I cannot be certain that the future occupiers of the proposed development would not be impacted by noise from the ground floor commercial use. Furthermore, it is not possible to ascertain what noise mitigation may or may not be required. On this basis, I have found that the imposition of a planning condition would not adequately address this matter. Therefore, I find that the Council did not act unreasonably in this regard.

9. I have had regard to the approach taken by the Council on other sites[2] which have been brought to my attention. However, I do not have full details of these schemes to be able to establish whether they are directly comparable. In any case, each proposal must be considered on it own site-specific circumstances.

10. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR

[2] Application Refs: 22/03092/P3G, 23/01249/P3M and 25/00634/P3G