
Costs Decision

Hearing (Virtual) held on 22 October 2025

Site visit made on 23 September 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2025

Costs application in relation to Appeal Ref: APP/Z5630/W/25/3369625

26 Victoria Road, Surbiton KT6 4JZ

- 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 Nick Woodworth of QPD2 Ltd for a full award of costs against the Council of the Royal Borough of Kingston Upon Thames.
 - The appeal was against the refusal to grant planning permission for the change of use of office at first and second floors to 6 no. residential units at first and second floor.
-

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 appellant seeks a full award of costs as they consider the Council's 3 no. reasons for refusal to have been unreasonable and not substantiated. The Council disputes the claim.
4. In my decision, I found that the proposed development was acceptable, and the appeal was allowed.
5. Regarding the first reason for refusal (marketing), there was no dispute between the main parties that the office accommodation had been marketed for more than 2 years as required by policies within the development plan. The Council's concerns relating to the 'shell condition' of the offices was found to be unreasonable, with the condition of the offices being reflected in its rental and sale price, along with an option to have it fitted out before occupation. Nor was it reasonable to view possible future demand for the offices as a reason to withhold permission, particularly after the requisite marketing had taken place in compliance with policy.
6. Whether there were office vacancies elsewhere or not, this was ultimately not a determinative factor. It was also considered that sufficient time had elapsed since the covid pandemic to assess the market for the demand for those wanting to return to an office from homeworking. The lack of on-site parking may have deterred some prospective occupiers, but conversely with it being within a well-connected area may have attracted others. Moreover, future occupiers could have investigated parking options nearby if that was a matter of significant concern for

them. In my decision I found that the offices had been rigorously marketed and the Council's objections on this reason for refusal were not justified or reasonable, nor did they demonstrate conflict with relevant development plan policies.

7. In terms of the second reason for refusal (affordable housing contribution), the Council has not provided any reasonable justification or evidence, including its references to section 73 and amendment applications, to support their view that the appellant artificially staggered the delivery of flats at the site to avoid an affordable housing contribution. Moreover, the evidence provided by the appellant, including the change of ownership, which demonstrated no involvement by the appellant with the earlier planning permission granted in 2022, and the works already undertaken to the building, some of which would require re-working and significant alteration as a result of the proposed development, strongly indicates to me there has been no artificially staggered delivery of flats. As such, the evidence provided by the Council has not substantiated or justified this reason for refusal.
8. Reason for refusal no. 3 related to 30% of the flats not having 3 bedrooms or more, as required by development plan policy, unless it was demonstrated that they would be unviable or unsuitable to provide. In this case I found the arguments advanced by the appellant to provide justification as to why the flats would not be suitable with 3 bedrooms or more. Those reasons related to the flats being located within a town centre, being at both first and second floor level, and with them having no private amenity space, along with the access arrangements for the on-site external shared communal space at fourth floor level (roof level). The Council's arguments about its latest Local Housing Needs Assessment, and nearby public open space, did not alter my view regarding its suitability. This reason for refusal on the evidence presented was also not found to be fully justified when applying the relevant exceptions within the development plan policy.
9. Therefore, the Council's 3 no. reasons for refusal were found on the evidence before me not to be reasonable, substantiated or justified by the development plan. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense by having to make this appeal has occurred and a full 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 Council of the Royal Borough of Kingston Upon Thames shall pay to QPD2 Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to the Royal Borough of Kingston Upon Thames, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Hunter

INSPECTOR