



Costs Decision

Hearing held on 18 November 2025

Site visit made on 18 November 2025

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Costs application in relation to Appeal A Ref: APP/K5600/W/25/3369602

39 Harrington Gardens, London SW7 4JU

- 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 James Woolf for a partial award of costs against The Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of planning permission for a lift, external alterations and gilt leather wallpaper restoration.
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Appeal B Ref: APP/K5600/Y/25/3369601

39 Harrington Gardens, London SW7 4JU

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr James Woolf for a partial award of costs against The Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of listed building consent for a lift, external alterations and gilt leather wallpaper restoration.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below, in relation to the planning decision.

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 costs application was made orally and later in writing at the hearing. The Council's rebuttal and the applicant's final comments were also made orally at the hearing. The application was made on substantive and procedural grounds.
4. In summary, the applicant submits that the Council's behaviour was unreasonable in declining to engage with the content of the noise/vibration assessment submitted as part of the appeal until a very late stage in the process, and then only after the Inspector requested it.
5. The applicant states that the Council determined that the absence of a noise/vibration assessment and fire safety statement justified its refusal of planning permission. The applicant therefore considers that it was entirely usual for the

- appellant to seek to address the reasons for refusal where it was possible to do so and that the appellant was not seeking to evolve the scheme through the appeal.
6. The applicant considers that the Council acted in a perverse manner by accepting the fire safety statement and withdrawing its reason for refusal on that matter in the first Statement of Common Ground but refusing to consider the noise/vibration assessment. The applicant comments that both were submitted with the appeal and there was no rational basis for accepting one and not the other.
 7. The applicant points out that following the Inspector's request for the Council to consider the additional noise/vibration assessment, the Council withdrew that reason for refusal subject to conditions. The applicant therefore suggests that the Council's consideration of this document at such a late stage resulted in additional costs because his team had to prepare to address the noise/vibration evidence at the hearing and enter into an additional Statement of Common Ground. It is alleged that these costs were associated with wasted time spent dealing with an issue on appeal which could have been resolved months ago.
 8. At the hearing (and in summary), the Council stated that it had not acted unreasonably nor caused increased costs for the appellant. The Council advised that the noise/vibration assessment was submitted with the appeal not the application, and that the Council's validation list made clear what extra information was necessary to support applications. The Council pointed out that the noise/vibration assessment should have formed part of the original application, especially given the proximity of the neighbouring property, and the document would have been consulted on.
 9. The Council commented that when extra reports are submitted with an appeal, officers normally wait for the Inspector to clarify whether they are accepted before commenting, hence the response in the first Statement of Common Ground. Following the Inspector's clarification in early November, the Council said that it obtained comments from the Environmental Health Officer on noise and vibration. The Council said that, at the same time, the Statement of Common Ground also needed to be revised because of the appellant's late, additional structural report. The Council commented that the appellant had not provided any evidence that resolving the noise/vibration matters close to the hearing date had placed any great burden on them.
 10. The Council considered that it was able to accept the fire safety statement with the appeal because the information did not go to the heart of the decision but merely demonstrated that fire safety had been considered within the proposal. The Council also confirmed at the hearing that it was not necessary to re-consult on this matter.
 11. The PPG advises that a Local Planning Authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or causes procedural unfairness to anyone involved. In particular, the PPG explains that the type of behaviour that may give rise to a substantive award of costs against a local planning authority includes not reviewing their case promptly following the lodging of an appeal against a refusal of planning permission. The noise/vibration and fire safety evidence did not seek to vary or modify the scheme but were submitted in direct response to the Council's reasons for refusal relating to a lack of detail. At the appeal stage the appellant provided the information that the Council

- considered to be lacking. Subsequently this information addressed both reasons for refusal in the planning decision prior to the hearing.
12. It would have been helpful for the appellant to submit the supporting documentation in relation to noise/vibration and fire safety with the original planning application. Based on the discussion at the hearing, it appears that submitting this information with the original application would have been logical, particularly regarding noise and vibration given the proposed lift's proximity to the adjoining property. However, there is little to indicate that the Council highlighted these matters or sought further information from the applicant whilst it was determining the applications.
 13. The Council accepted, and reviewed promptly, the fire safety evidence and withdrew this reason for refusal in the original Statement of Common Ground, and I understand the Council's reasons for doing this. This narrowed the matters in dispute. However, at the same time, the Council should have considered in the same way the noise/vibration evidence, and there is little to suggest that this was a particularly burdensome document which would take significant time or resources to respond to. The Council should not have needed to wait for my clarification and should have acted promptly to review its case following the lodging of the appeal with this information. Had the Council considered this document at an early stage, the matter could have been readily addressed. This was confirmed by the updated Statement of Common Ground, only a few weeks before the hearing, when the Council, in finally responding to the document, confirmed that the reason for refusal had been addressed (subject to conditions). This also demonstrates that the Council did not consider that it was essential to consult externally on this document.
 14. Had the Council assessed this information at the point when it prepared its appeal statement, it would likely have further narrowed the matters in dispute. Whilst there is little evidence that the applicant's team spent a significant amount of time or resources preparing to defend the noise/vibration reason for refusal at the hearing or in updating the Statement of Common Ground, the Council addressing this matter in a timely fashion would have reduced the appellant's expense associated with the appeal to some extent.
 15. The matter in dispute was only in relation to the planning decision and there is little evidence to suggest that the additional costs spanned both appeals. Therefore, in summary, I have found that unreasonable behaviour occurred in relation to the Council's failure to review the noise/vibration evidence at an early stage in the appeal proceedings. Therefore, in relation to the planning appeal, I find that the applicant spent some additional time and effort addressing this matter. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

16. 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 Kensington and Chelsea shall pay to Mr James Woolf, the costs of the appeal proceedings in relation to the planning appeal, described in the heading of this decision, limited to those costs incurred in relation to the first refusal reason on the planning decision from the point in the appeal process that followed

the receipt of the Council's appeal statement; such costs to be assessed in the Senior Courts Costs Office if not agreed.

17. The applicant is now invited to submit to the Council of 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.

G Bayliss

INSPECTOR