
Costs Decision

Site visit made on 5 November 2025

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Costs application in relation to Appeal Ref: APP/V5570/W/25/3369241 2-3 Hanover Yard, Islington, London N1 8YA

- 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 Laura Holmes, Holmes Production for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against the refusal of planning permission for Creation of a roof terrace upon the existing Level 3 flat roof of 2-3 Hanover Yard with timber screening and installation of green roof.
-

Decision

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

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 submits that the Council has acted unreasonably by refusing permission to erect a roof terrace to the building for the purposes of use by staff members as no private outside space is available on site. They reason that the use of the outdoor terrace would foster good working relationships and improve wellbeing.
4. They dispute the Council's reason for refusal No 1 as the Council contests it would not preserve heritage assets, and reason for refusal No 2 that contains many components although in summary reads that the proposal would result in adverse impacts on the living conditions of local residents.
5. There is planning history surrounding the site. The Applicant originally entered into pre-application advice¹ and I am aware they were given informal planning advice by the Council. The return response explained that the roof terrace 'may' be deemed acceptable although this was caveated. To my mind this reply is a reasonable approach for the Council given the sensitivities of the location of the site.
6. The Applicant later submitted an appeal against a refused planning permission for a roof terrace, and the appeal² was dismissed by the Planning Inspector as it did not satisfy planning policy with regards to safeguarding heritage assets or the living conditions of neighbouring residents

¹ Pre-app reference Q2022/3897/MIN

² Appeal Reference APP/V5570/W/23/3327685

7. A further pre-app³ for a roof terrace was entered into by the Applicant and I read from the evidence before me that the Council's response was unfavourable. Despite this, the Applicant chose to submit a planning application for the roof terrace. The evidence before me indicated it had a smaller footprint to the earlier appealed scheme with a different perimeter privacy screen and various other structural effects. Further to the negative pre-application response from the Council, the Applicant submitted a planning application but admits within the evidence before me that they anticipated an appeal situation. Unexpectedly, the case officer supported the scheme and recommended approval for the roof terrace.
8. Whilst the Council in their 2024 pre-app response did not support the scheme, and I am not party to the precise situation that arose during the stage of the live planning application, the case officer sought to recommend approval once a formal application was submitted. This change in recommendation can be possible to arise, and the Applicant also acknowledges that pre-application advice is not binding to any formal decision made by the Council.
9. I understand it is disappointing for the Applicant to have received a Planning Committee overturn decision. They nevertheless accept it is for elected Members to come to their own decision on planning applications. However, it is the reasons behind why the Members have come to this view I must consider and whether or not the Council have been unreasonable when refusing permission for the proposal, and if this has caused unnecessary or wasted expense to the Applicant.
10. Turning to the matter of the effect of the proposal on heritage assets as detailed within reason for refusal No 1, I have read that there was no mention of the effect on the setting of the listed assets included within the Council's reason for refusal in their decision notice dated 21 June 2023. That particular scheme is not before me to determine and I must concentrate on the matter in hand.
11. I read that the two parties disagree on the impact of the proposal before me on heritage assets. I am of the view that despite the absence of a reason for refusal pertaining to listed assets within the earlier refused scheme of 21 June 2023, it was not unreasonable for the Council to arrive at this judgement. My findings on this matter are that there would be some degree of harm that would arise as to how the setting of the listed buildings would be experienced. Therefore it has not resulted in unnecessary or wasted expense on the Applicant's behalf.
12. The second reason for refusal relates to living conditions of local residents. The Applicant argues that including overlooking and a loss of privacy to neighbouring dwellings within the multi-faceted reason for refusal No 2 was unjustified and furthermore, no mention of overlooking and loss of privacy was included within the reason for refusal No 2 within the earlier 21 June 2023 decision notice.
13. I am dealing with the proposal before me and not determining why an earlier scheme was refused by the Council in June 2023. Nevertheless, I have compared the two schemes in this regard and taken account of the size, position and nature of screening on both schemes and the fact that it did not form part of the reason for refusal on the earlier proposal.
14. I find that with regards to the appeal before me with its composition of slatted timber enclosure and lower boundary treatment, together with a combination of

³ Pre-application reference P/2024/3076/MIN

distances to neighbouring habitable rooms, garden spaces and angled relationship would prevent overlooking and a loss of privacy to adjacent neighbours. This component part of reason for refusal No 2 is therefore unsubstantiated.

15. The Applicant also raises noise and disturbance as unreasonable as part of refusal reason No 2 given the noise data submitted at formal planning stage and the findings of the Council's experts in Environmental Health together with case officer recommendation, did not give rise to significant concerns. They also point to noise mitigation by using planning conditions and query the reasoning behind Member decision-making based on an elected Member verbally disclosing during the public Planning Committee debate, that they had not read the submitted noise survey.
16. There is no reasonable expectation that Members read every document associated with planning applications that come before Planning Committee. The evidence before me indicates that they remained unconvinced by the noise report's findings or indeed that the Noise Management Plan would be sufficient to mitigate the effects of the proposal in this regard. Therefore, this was included as part of reason for refusal No 2. It is not for the Members to provide any alternatives to mitigate effects of a development. I too share their concerns with regards to this specific matter. Therefore, I find that defending this part of the reason for refusal has not resulted in unnecessary or wasted expense on the Applicant's behalf.
17. My overall findings on the matter is such that the Council were unreasonable to include the effects of overlooking and loss of privacy arising from the terrace as this is unsubstantiated and is required to pay a partial award of costs pertaining to the time spent defending only this part of reason for refusal No 2.

Costs Order

18. 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 London Borough of Islington shall pay to Laura Holmes, Holmes Production, the costs of the appeal proceedings limited to the time spent defending part of the reason for refusal relating to the effects of the proposal on overlooking and loss of privacy only.
19. The applicant is now invited to submit to the London Borough Council of Islington, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Alison Scott

INSPECTOR