Planning Inspectorate

# Costs Decision

Hearing held on 20 January 2026

Site visit made on 20 January 2026

**by J Symmons BSc (Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 18th February 2026**

**Costs application in relation to Appeal Ref: APP/A5270/W/25/3374614**
**10 Spring Bridge Mews, Ealing, London W5 2AB**

- 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 the Council of the London Borough of Ealing for a partial award of costs against Mr A Francis.
- The appeal was against the refusal of planning permission for demolition of existing studio offices and construction of new four storey office building with cycle store and photovoltaic panels.

## Decision

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

## Submission for applicant - the Council of the London Borough of Ealing

2. The costs application was made orally at the Hearing. Given its detail, the need for supporting evidence, and in the interests of fairness to enable the appellant to respond, the applicant also submitted the oral costs application in writing after the Hearing.

3. The costs claim asserts that late provision of the unilateral undertakings (UUs), with no draft supplied before the finalised version were issued on 12 January 2026 prevented negotiation and discussion of its terms including payment of the applicant’s legal cost to review. This is claimed to have resulted in the absence of a costs undertaking clause in the UUs which left the applicant compelled to review the documents without any mechanism for recovering its fees, and that this was unreasonable.

## Response by respondent - Mr A Francis (appellant)

4. The appellant disputed the cost claim orally at the Hearing and provided a written response to the applicant’s written costs application.

## Reasons

5. 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. It goes on to state that appellants are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal.

6. As the applicant considered a planning obligation was necessary to secure the affordable workspace contribution (contribution), it was neither unreasonable nor unexpected that its terms would need to be reviewed and negotiated during the appeal. This reflects the Procedural Guide: Planning Appeals – England (Procedural Guide), which anticipates constructive dialogue and refinement of planning obligations through the appeal process. The applicant's review of the UUs, the provision of comments, and continued engagement were therefore normal and expected elements of the appeal process.

7. At the outset of the appeal, and due to uncertainty over the procedure, the appellant submitted an executed UU to demonstrate its intention to provide a planning obligation if required. Once it was confirmed that the appeal would proceed by way of a Hearing, the correspondence of 4 December 2025 made clear, in line with the Procedural Guide, that any obligation would need to be executed and agreed with the applicant for discussion at the Hearing before the appeal was determined. Although exchanges primarily concerned the contribution calculation, the appellant engaged with the applicant to agree the form of the obligation. This led to agreement on rental evidence on 23 December 2025 and the submission of amended executed UUs on 12 January 2026.

8. Although no draft UUs were provided between the initial submission and the 12 January versions, the applicant nonetheless had ample opportunity during this period to identify any terms it considered necessary to be included. Nothing indicates that the applicant was unable to provide further comments after the 12 January submission. Indeed, it offered comments on 16 January and confirmed its legal fees on 17 January, demonstrating its ability to engage with the process. While the time to comment on the UUs was limited, there remained sufficient opportunity for any further concerns to be raised and addressed at the Hearing on 20 January.

9. During the Hearing, the applicant did not state that any of the terms referred to in its earlier comments, including the request for a costs undertaking, were necessary to the proper operation of the obligation. Nor did the applicant indicate at this stage that it was essential for a costs undertaking to be included in the UUs. This aspect was only raised in specific terms later, during the agenda item relating to the application for costs. Had the applicant identified it at the appropriate stage, then subject to agreement between the parties, an amended and executed obligation could have been provided after the Hearing to reflect any such agreed amendments, as expressly permitted by the Procedural Guide.

10. It is therefore evident that, notwithstanding the absence of draft UUs, the applicant had sufficient opportunity to identify any general terms it considered necessary, to negotiate and comment on the final executed version, and to indicate during the appeal process if inclusion of a costs-undertaking clause was essential. Accordingly, unreasonable behaviour by the appellant resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and an award of costs is not justified.

*J Symmons*

INSPECTOR