



Costs Decision

Inquiry held on 25 November 2025

Site visit made on 25 November 2025

by **Peter White** BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Costs application in relation to Appeal Ref: APP/J1535/X/25/3368397

47 Roydon Lodge Estate, High Street, Roydon, Harlow, Essex CM19 5EF

- The application is made under the Town and Country Planning Act 1990 ("the Act"), sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Epping Forest District Council for full and partial awards of costs against Mr Dean Keys.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for details of development or use.
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Decision

1. The application for an award of costs is allowed in part 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 Council's application is made in three parts.
The full application:
4. The application was initially made in the event that the appeal succeeded on the basis of legal arguments raised by the appellant's advocate on the morning of the inquiry (based on *Handoll* and section 75(3) of the Act). The Council's case is that it is unreasonable to raise important points of law so late in the inquiry process where they are capable of definitively concluding an appeal.
5. When post-Inquiry legal submissions were required, the Council requested that the appellant's alleged failure to address the legal consequences of his position at the Inquiry be included in its application. Opportunity has therefore been given to both parties to make final comments on the costs applications made.
6. Although I found in favour of the appellant's position that the building erected was not that for which planning permission had been granted, I dismissed the appeal for other reasons. A full award is therefore not due.
7. However, the appellant's case, as it was presented at the Inquiry, differed from that set out in its Statement of Case, such that it was presented for the first time at the opening of the Inquiry.

8. Even if that occurred in response to matters raised by the Inspector at the Case Management Conference, and in response to the Council's witness's proof of evidence, it resulted in the Council and the Inspector attempting to grapple with the appellant's changed case without notice. Although much of that was accommodated at the Inquiry, a proper exploration of the consequences of the appellant's new primary case was necessary through further written legal submissions after the Inquiry.
9. The change to the appellant's primary case without notice amounted to unreasonable behaviour and the Council incurred additional expense which could have been avoided had the matter been concluded at the Inquiry. That unnecessary expense was limited to the further submissions after the Inquiry had closed, and a partial award should therefore be made against the appellant.

The alternative application:

10. An application for a partial award arising from the time wasted in dealing with the arguments associated with *Handoll* if they are found to be unsound, on the basis that the inquiry could have concluded at least 3 hours earlier.
11. Having found that the appellant's arguments in relation to whether the building was that for which planning permission had been granted were not unsound, these circumstances do not arise.

The further alternative application:

12. Arising from the time spent dealing with the Appellant's additional evidence on 4 years' use (submitted with Mr Keys' proof of evidence). Made on the basis that that evidence should have been submitted with the application for a Certificate of Lawfulness or, at the latest, with the appeal statement.
13. There would have been no need for an Inquiry had the Council not changed its position on the evidence of occupation for a four year period in its statement of case. In these circumstances, it was quite reasonable for the appellant to have reviewed his evidence in relation to 4 years of use at the point the Council's new position was made known, as his appeal (as initially made) was on the basis that the only matter at issue was the interpretation of the law in relation to 4 or 10 years.

Conclusions

14. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the post-Inquiry legal submissions and a partial award of costs is justified.

Peter White

INSPECTOR

COSTS ORDER

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 Mr Dean Keys shall pay to Epping Forest District Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the post-Inquiry legal submissions; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Dean Keys, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.