



Costs Decisions

Hearing held on 2 October 2025

Site visit made on 3 October 2025

by **F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2026

Costs application in relation to Appeal A Ref: APP/K5600/W/24/3350392

39 Harrington Gardens, Kensington and Chelsea, 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 J Woolf for a full or partial award of costs against the Council of the Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of planning permission for development described as 'external alteration to glaze over lightwell, works to front steps and other external alterations. Internal alterations throughout, including alterations to partitions and other internal alterations.'
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Costs application in relation to Appeal B Ref: APP/K5600/Y/24/3350391

39 Harrington Gardens, Kensington and Chelsea, 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 J Woolf for a full or partial award of costs against the Council of the Royal Borough of Kensington and Chelsea.
 - The appeal was against the refusal of listed building consent for works described as 'external alteration to glaze over lightwell, works to front steps and other external alterations. Internal alterations throughout, including alterations to partitions and other internal alterations.'
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Decisions

1. **Appeal A and Appeal B:** The applications for a full or partial award of costs are refused.

Preliminary Matters

2. The applications were submitted by Mr J Woolf (the applicant) in writing following the close of the hearing. The applications followed the standard procedure of allowing the Local Planning Authority of the Council of the Royal Borough of Kensington and Chelsea (the LPA) to respond and then giving the applicant the opportunity to submit final comments.

Reasons

3. 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. The PPG

sets out examples (not exhaustive) of behaviour which may give rise to an award of costs against a local planning authority¹.

4. The applications relate to the redetermination of previous appeal decisions dated 6 February 2025 which were quashed by order of the High Court on 6 May 2025. The original appeal decisions had associated applications for costs by both the applicant and the LPA. The costs decisions were not challenged. Consequently, the original costs decisions remain extant, and the matters addressed within them cannot be revisited. However, fresh costs applications, made solely in connection with the redetermination of the appeal decisions, can be considered.
5. The applicant advances that the LPA has behaved unreasonably on both procedural and substantive grounds, resulting in them incurring unnecessary or wasted expense in the redetermination of the appeals.
6. The procedural grounds cited by the applicant concern the LPA's failure to co-operate, in presenting a case inconsistent with the position agreed in a Statement of Common Ground (SoCG); and in making misleading and factually inaccurate statements regarding the planning history of the site.
7. The building has a complex planning/ conservation history which has continued to evolve following the determination of the applications and previous appeals. It appears that this has led to difficulties and confusion in terms of the preparation and agreement of the SoCG by the parties.
8. The 'optimum viable use' of the dwelling was considered against the background of a previously granted scheme, referred to as the March 22 consent² and the 'Representation on behalf of the Freeholder' by Mr N De Keyzer³. Although linked to the consideration of public (including heritage) benefits in the context of Paragraph 215 of the National Planning Policy Framework, I am not persuaded that, as advanced by the applicant, the LPA unreasonably presented a case at the hearing which was inconsistent with that agreed at 8.1.9(d) of the SoCG.
9. I acknowledge that the LPA's submissions in its revised Statement of Case, in an email the day before the hearing and in oral evidence at the event, were inconsistent with those set out under Matters of Agreement in the SoCG concerning the overlay plans and associated 'reduced scope of works'⁴. The disparities between the LPA's revised Statement of Case and the SoCG in relation to these matters were raised by the applicant with the LPA on 24 September 2025, to which no response was received. On this basis, the LPA could be accused of acting unreasonably.
10. However, it is evident that there has been a fundamental misunderstanding between the parties as to the status of the overlay plans attached to the SoCG and the associated reduced scope of works. Namely, whether they were being submitted and agreed to as an amendment to what was considered at application stage and at the previous hearing (the applicant's view); or whether they merely showed the planning permissions and/or listed building consents which have been subsequently granted for some of the proposed development/ works contained in

¹ Paragraph: 047 Reference ID: 16-047-20140306 (Procedural); and Paragraph: 049 Reference ID: 16-049-20140306 (Substantive).

² Application Ref: PP/21/04411, Change of use of building from office (Class E (g) (i)) to a single family dwelling (Class C3), with associated internal alterations.

³ Submitted by the applicant, received by PINS via email on 30 September 2025.

⁴ As set out in 8.1.5 and 8.1.6 of the Statement of Common Ground.

the original drawings, and were for information purposes (the LPA's view). This confusion has obviously had implications in terms of what the parties understood to be 'Matters of Agreement' in the SoCG.

11. It is reasonable to conclude that whilst the LPA should not have made 'assumptions' regarding the status of the overlay plans and reduced scope of works within the SoCG before agreeing to it, the intentions of the applicant in relation to these matters should have been clearer. I acknowledge the views of both parties on these matters and I have no reason to question their intentions in relation to the evidence submitted and the cases they have advanced. Nonetheless, as a consequence, this makes it difficult to conclude that either party has behaved unreasonably in this regard.
12. It would have been beneficial to all parties if the LPA had responded to the applicant's correspondence regarding the 'inconsistencies' between the two documents. However, realistically and not unreasonably, the timing of this left little opportunity for the LPA to act in response.
13. Even if I had found unreasonable behaviour on the LPA's part in this respect, given these matters involved amendments to the appeal scheme, whether agreed or not in the SoCG, it would still have required a discussion about them at the hearing in relation to procedural guidance and relevant caselaw. As such, I am not persuaded that any time, and thus expense, spent by the applicant on these matters was unnecessary or wasted.
14. At the hearing, I accepted the overlay plans for information purposes, with the conclusion of whether or not they should be accepted in the determination of the appeals being reserved to my main decisions. As such, the LPA was given the opportunity to comment on all aspects of the scheme it determined at application stage and which was considered at the previous hearing.
15. Whilst some development and/or works have been granted permission and/or consent, the overlay plans show differences between the granted development and/or works and the original scheme. Moreover, although the LPA commented on the proposed works to the rear basement area, this was primarily in relation to the insertion of glazing within the lightwell, which was still part of the reduced scope of works advanced by the applicant, and it did not comment on or defend its opposition to the alterations on the fourth floor which were granted on appeal. For these reasons, the LPA did not behave unreasonably in relation to the elements of the scheme it commented on.
16. The applicant's assertion that the LPA presented misleading and factually inaccurate statements as regards the planning history of the property principally relates to the status of the March 22 consent and any associated legal action by the LPA. There is clear disagreement between the parties on whether or not the March 22 consent has been implemented, and the written and oral evidence presented provides conflicting opinions on the existence and nature of any associated legal action.
17. As set out in my main decision letter, it is not for me as part of the redetermination of the appeals to resolve whether or not the March 22 consent has been implemented, particularly in the context of any legal action; and not possible given the limited written and oral evidence provided on this matter. I am satisfied that the information in the LPA's revised Statement of Case was as the officers understood

the situation to be at the time of its preparation, and any conflict with evidence given orally at the hearing was due to a change in circumstances. I am not of the opinion that the information was manifestly inaccurate or untrue for it to be deemed unreasonable behaviour. Furthermore, since this matter was not pursued any further with the parties as part of the hearing process, no unnecessary or wasted expense on it was incurred by the applicant.

18. I note the outcome of the applicant's costs application in relation to appeal ref: APP/K5600/Y/25/3358638. However, the matter that the LPA refused to discuss amendments at applications stage to the scheme which is the subject of these appeals was addressed in the applicant's previous and extant costs applications, and cannot be revisited. Additionally, the decision of whether or not any amendments to a scheme at appeal stage should be accepted, including any supporting information, is a matter for the decision maker, having regard to procedural guidance and relevant caselaw. It is not a matter for the LPA. As such, I find that the LPA's approach in this regard as part of the redetermination of the appeals is reasonable.
19. The substantive grounds for costs cited by the applicant are the LPA's vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis; and refusing permission on a ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposal to go ahead.
20. From the written and oral evidence provided, the LPA has been clear and consistent in its analysis and explanation of where it considers the scheme would result in harmful, neutral or beneficial effects to the significance of the relevant designated heritage assets.
21. The LPA's conclusions on the proposed replacement of the red tiles on the front entrance steps are cited by the applicant as an example of vague and/or inaccurate assertions of the proposals impact, which feed through to the overall heritage/ planning balance. Nevertheless, the conclusions reached on this and other aspects of the scheme are the result of the LPA exercising its professional planning judgement. Although I reached a different conclusion to the LPA on some elements of the scheme, including the replacement of the red tiles, I am not convinced that its assertions about the proposal's impact or the overall heritage/ planning balance were vague, generalised or so without foundation as to represent unreasonable behaviour.
22. In relation to the matter of the LPA 'failing to resolve by way of condition matters obviously capable of resolution in that way', whilst the applicant contends that the LPA have conceded on this issue, this is disputed by the LPA⁵. Even though 'suggested' conditions are included in the SoCG and were discussed at the hearing, and a revised list of suggested conditions was prepared by the parties⁶; this is standard procedure, without prejudice and does not affect the respective cases of the parties.
23. More importantly, the detail of this matter was addressed in the applicant's previous and extant costs applications, and cannot be revisited. I therefore find that the LPA did not behave unreasonably in this regard.

⁵ In the applicant's rebuttal to the LPA's applications for costs.

⁶ After the close of the hearing.

Conclusions

24. **Appeal A** and **Appeal B**: Drawing all of the above together, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a full or partial award of costs is not warranted.

F Cullen

INSPECTOR