



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 the Council of the Royal Borough of Kensington and Chelsea for a full or partial award of costs against Mr J Woolf.
 - 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 the Council of the Royal Borough of Kensington and Chelsea for a full or partial award of costs against Mr J Woolf.
 - 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 the Local Planning Authority of the Council of the Royal Borough of Kensington and Chelsea (the LPA) in writing following the close of the hearing. The applications followed the standard procedure of allowing Mr J Woolf (the appellant) to respond and then giving the LPA 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 an appellant¹.

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 LPA and the appellant. 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 LPA submits that the appellant has demonstrated unreasonable behaviour which has led to unnecessary or wasted expense in the redetermination of the appeals, in terms of i) a delay in providing information or other failure to adhere to deadlines; and ii) introducing fresh evidence at a late stage necessitating extra expense for preparatory work that would not otherwise have arisen.
6. These matters relate to the submission by the appellant of a 'Representation on behalf of the Freeholder' by Mr N De Keyzer dated 25 September 2025 (the representation), and a commentary on the LPA's revised Statement of Case (the commentary). Both documents were sent by email to PINs on 30 September 2025, outwith the timetable as set out in the Planning Inspectorate's Procedural Guide: Planning appeals – England².
7. The representation comprised Mr De Keyzer's professional views as to the 'viability' of a previously granted scheme, referred to as the March 22 consent³, in comparison to the appeals scheme. It also included comments on the market expectations and/or demands in relation to the appeal property. Whilst this evidence did not advance any amendments to the appeals scheme, it could reasonably be concluded that it introduced a new issue at a late stage in the appeals process, which the LPA was required to respond to.
8. No compelling reason has been provided by the appellant as to why the representation was submitted at such a late stage in the appeals proceedings. Taken together, the appellant's failure to adhere to the hearings timetable in respect of their revised Statement of Case and the introduction of what is effectively fresh evidence at a late stage, amounts to unreasonable behaviour.
9. Nonetheless, the representation is less than three pages long and merely a professional opinion connected to an assessment of the 'optimum viable use' of the listed building as a designated heritage asset⁴, as opposed to a formal and detailed comparative viability assessment or similar. Had it been the latter, greater scrutiny would clearly have been required and undertaken in relation to its acceptance, or not, and the ability, or not, of the LPA to respond to it.
10. Moreover, although its late submission allowed very little time for wider consultation within the LPA, officers attending the hearing confirmed on the day, that the

¹ Paragraph: 052 Reference ID: 16-052-20140306 (Procedural); and Paragraph: 053 Reference ID: 16-053-20140306 (Substantive).

² Section 10. Hearings. Procedural Guide: Planning appeals – England. For appeals relating to applications dated on or before 31 March 2026.

³ 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.

⁴ In line with Paragraph 215 of the National Planning Policy Framework.

timetable of the event provided the opportunity for them to consider the representation and respond to it, as far as they were able, without the need for an additional adjournment.

11. Given the limited length and nature of the representation, in conjunction with the LPA's oral evidence at the hearing, I am uncertain as to the 'significant resource' that the LPA submits it had to 'divert' in order to consider this evidence.
12. Consequently, whilst I find that the appellant acted unreasonably in relation to the submission of the representation, it has not been demonstrated that it led to any unnecessary or wasted expense by the LPA as part of the redetermination of the appeals.
13. The commentary comprised, what is described by the appellant as, an annotated/ highlighted copy of the LPA's revised Statement of Case, with the intention of making clear which elements had been dealt with in the Statement of Common Ground, including the overlay plans (SoCG), and were therefore no longer matters of contention between the parties.
14. The building has a complex planning/ conservation history, which has continued to evolve following the determination of the applications and previous appeals. On this basis, it is not unreasonable of the appellant to highlight relevant material changes in circumstances at the appeal site. This is particularly so when, from the appellant's understanding, these matters had been agreed as part of the SoCG.
15. The appellant's date of signature on the SoCG is 8 August 2025. This is before the LPA had submitted its revised Statement of Case on 11 August 2025 and before the LPA signed the SoCG on 14 August 2025. Consequently, the appellant could not have confirmed the stated 'inconsistencies' between the two documents until after 14 August 2025.
16. I accept that the appellant would require 'a reasonable period of time' to review the LPA's revised Statement of Case in light of the SoCG, and I note the time of year which may have coincided with those involved taking annual leave. Even so, the two documents were available for review from 14 August 2025, and it has not been demonstrated why it took the appellant until 24 September 2025 to contact the LPA about the disparities. Realistically, this left little time for the LPA to respond and for the parties to discuss the matters raised and/or establish a common ground prior to the hearing. In this respect, the appellant could be accused of acting unreasonably.
17. 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 appellant'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 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.
18. It is reasonable to conclude that whilst the intentions of the appellant in relation to the overlay plans and reduced scope of works should have been clearer, the LPA

should not have made 'assumptions' regarding the status of these matters within the SoCG before agreeing to it. 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.

19. It would have been beneficial to all parties if the 'inconsistencies' between the two documents had been raised sooner by the appellant with the LPA. Indeed, this may have revealed the full extent of the misunderstanding and enabled a resolution in good time before the event. Nevertheless, given the belief of the appellant that these matters had been agreed, it was reasonable for them to highlight the discrepancies.
20. Even if I had found unreasonable behaviour on the appellant's part in this regard, it is more than likely that an assessment of the overlay plans would have been part of the appraisal of, and agreement to, the SoCG by the LPA, albeit on the assumption that they were for information purposes only. Moreover, the reduced scope of works concerned grants of planning permission/ listed building consent that the LPA would already be very familiar with, and the removal, rather than addition, of specific elements of the proposed development/ works.
21. As such, I am not convinced that any unnecessary or wasted time, and thus expense, would have been incurred by the LPA in reviewing the commentary, overlay plans and reduced scope of works prior to the opening of the hearing, and constructing a case if they were to be accepted as amendments.
22. The LPA's costs case cites matters concerning the submission of amendments to the original scheme by the appellant as part of the appeals process and the LPA's well established procedure of negotiation at pre-app and/or application stage. The appellant has responded to this in their rebuttal, which also forms part of their own costs applications, to which the LPA has responded. As the LPA has confirmed these matters are 'not part of its costs applications', I have not dealt with them in this decision letter. My approach and conclusions regarding amendments to the appeals scheme are set out in the main decision letter and I have addressed the matters in the appellant's rebuttal as part of their costs applications.

Conclusions

23. **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