

Costs Decision

Site visit made on 13 June 2026

By Mr A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th July 2026

Costs application in relation to Appeal Ref: APP/H5960/X/26/3377536
126 Flat Ground to Second Floor A, Lower Richmond Road London SW15 1LN

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Floyd Barnes on behalf of Living London Ltd for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against the refusal of a certificate of lawful use or development for existing use of the property as an HMO (Class C4).
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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 Planning Practice Guidance (PPG) advises that, awards against a party may be either procedural or substantive. Costs may be awarded where the respondent has behaved unreasonably on procedural and substantive grounds. An example of the former is withdrawal of any reason for refusal by the authority. Circumstances demonstrating the latter include preventing or delaying development which should clearly be permitted, having regard to material considerations.
3. The PPG encourages each party to review their respective arguments as part of good case management, but there are no set timescales in which a review should happen. In a written representation appeal, any party could review their respective cases and change their minds at any point: however, the faster the better. It's also good practice to ensure mechanisms are put in place to review appeal submissions as soon as practicable. The lesson here is to be open, frank, honest and act in a timely manner. That said, it is necessary to keep to the set timetable.
4. The LDC application was refused on 14 January 2026, and the applicant sought their own legal advice from Counsel by 21 January and the appeal against the refusal was made the following day. Following a review of the reasons for refusing the LDC application in the light of the applicant's submissions, the respondent withdrew from defending the reason for refusal but asked The Planning Inspectorate to determine the appeal. That was communicated by e-mail on 21 April 2026. I asked The Planning Inspectorate's Case Officer to clarify the reason for withdrawal.
5. By e-mail dated 11 June 2026 the respondent confirmed that a new officer reviewed the LDC application and representations. Having sought managerial and

legal advice, the respondent decided to withdraw from the appeal process as the previous officer incorrectly assessed the material facts. As I have said in my Decision, the refusal of the LDC application was not well-founded.

6. In this case, although the appeal was made in January it started on 2 March 2026. By 21 April the respondent confirmed withdrawal, which was after the deadline for statement of case on 13 April 2026. The Planning Inspectorate confirmed the position with the appeal parties by e-mail dated 27 April. In such circumstances, the respondent chose not to submit a statement of case, and the appeal questionnaire bundle included the previous officer's report.
7. Contrary to the agent's arguments, I do not consider the time gap to be significant, and the applicant was not prejudiced by any delay or failure to notify them of the withdrawal. In my assessment the respondent should be commended for its action. They readily admitted the error and withdrew from the appeal as soon as practicable.
8. The respondent did not try and defend the indefensible but instead requested The Planning Inspectorate to determine the appeal. It pressed for a site visit, and I saw the configuration and layout for myself. It is not a self-contained flat: it is unclear how the respondent's case officer came to that view. Nonetheless, my decision explains why its existing use as a small Home in Multiple Occupation is lawful. On the circumstances of this case, the failure to submit any statement to substantiate its reasons for refusal is not fatal because the respondent authority had already decided not to defend its reasons for refusing the LDC application.
9. Acting contrary to established case law can amount to unreasonable behaviour. This will not necessarily be the case where reliance is placed on legal interpretation of case law which, quite evidently, differs amongst legal experts. It appears that the respondent sought professional advice once it had reviewed its position. In any event, while I have applied the relevant principles to the facts of this case and arrived at a different conclusion, in my opinion, the adoption of an alternative legal position is not by itself irrational or unreasonable.
10. The applicant exercised their right of appeal and there is nothing before me to indicate the respondent behaved unreasonably following the refusal of the LDC and appeal submission. I consider that the respondent's stance and approach have not resulted in procedural or substantive unreasonableness thereby causing the applicant to incur unnecessary or wasted expense in the appeal process. I conclude that an award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector