



Costs Decisions

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

an Inspector appointed by the Secretary of State

Decision date: 21 July 2026

Appeal Ref APP/L5810/X/25/3358690

Red Ices, Mears Walk, Richmond Riverside TW10 6UJ

- Application A and B are made under the Town and Country Planning Act 1990 as amended, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Application A is made by Barry Edwards on behalf of Running Red Ltd for a full or partial award of costs against Council of the London Borough of Richmond-upon-Thames.
 - Application B is made by the Council of the London Borough of Richmond-upon-Thames for a full or partial award of costs against Barry Edwards on behalf of Running Red Ltd.
 - The appeal was in connection with a refusal to grant a certificate of lawful use or development (LDC) for the retention of existing ice cream stand.
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Decisions - Application A and B

1. Both applications for an award of costs are refused.

Reasons – Both Applications

1. 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. An award of costs does not necessarily follow the outcome of an appeal. The PPG also advises that in these proceedings, parties normally meet their own expenses. The purpose of this application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide if an award of costs in respect of the appeals is justified on the available evidence in a particular case. My decisions on the LDC appeals explain why it has failed: I will not rehearse the reasons here.
2. Application A: The applicant is aggrieved by the respondent's handling of the LDC application, but as the PPG advises costs can only be awarded in relation to unnecessary or wasted expense at the appeal. Nonetheless, what happened before the appeal can be relevant in determining unreasonable behaviour. The applicant raises concerns about the need to make the application and were forced to apply for the LDC as they considered the development is immune from enforcement action, due to the passage of time: but they decided to submit the LDC application.
3. I have carefully reviewed all the arguments made in support of the application, including arguments that the process has been burdensome, but I do not detect deliberate lack of cooperation or obstruction by the respondent authority. The concern is that the respondent refused the LDC application without good reason. The applicant exercised their right of appeal against refusal, but it seems to me that the respondent did not unreasonably refuse the LDC as it considered the merits based on the evidence. I too have found considerable deficiencies and lack of clear, unambiguous and precise evidence: the latter being unnecessarily voluminous and repetitive.
4. Once the appeal was made the respondent did not concede. The appeal raised matters of interpretation applying relevant case law and key principles of planning law, which I consider

both appeal parties failed to apply. That said, the respondent provided a statement and explained why it refused the LDC application. Furthermore, sufficient arguments in support of its stance were made in each appeal. I do not consider that the respondent's stance was fundamentally flawed and there is nothing before me to support the claim that the respondent deliberately delayed or obstructed the determination of the application.

5. Application B: The respondent exercised their right of appeal against refusal of the LDC in the hope that there is a reasonable prospect of success. The respondent perceived it had sufficient evidence to show immunity or that the existing use fell within the ambit of an extant planning permission. The arguments made before me were not already rehearsed before previous Inspectors, these matters required assessing in the context of the LDC appeal. There is nothing before me to indicate behaviour that led to deliberate lack of co-operation on the respondent's behalf. I acknowledge the scattergun approach taken to the grounds of appeal by the respondent. Nonetheless, they provided sufficient argument in support of the LDC application.

Overall conclusion – both applications

6. The applicants refer to previous appeal and costs decisions made by Inspectors, but I have assessed Application A and B on their own merits.
7. I have carefully considered this application but come to an inescapable conclusion. The applicants have not demonstrated that the behaviour amounts to unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG. It has not been demonstrated that an award of costs, full or partial, is justified in the circumstances.

A U Ghafoor

INSPECTOR