



Costs Decisions

Site visit made on 17 March 2026

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2026

Costs Applications in relation to Appeals:

Appeal A Ref: APP/Z4310/W/25/3371699

Appeal B Ref: APP/Z4310/Y/25/3371700

14 Holly Road, Liverpool L7 0LH

- The applications are made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6; 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 applications are made by Yakel Property Investment for a full award of costs against Liverpool City Council.
 - The appeals were against the refusals of planning permission and listed building consent for a proposal originally described as: Adaptation/change of use of former nuns' shared accommodation to form a 12 room HMO (sui generis) with shared communal facilities, associated internal and external alterations/refurbishments (including external rendering and new/replacement windows and rooflights) and erection of bin and cycle stores.
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Decisions

1. The applications for an award of costs in relation to both appeals are refused.

Procedural Matters

2. The claim for costs relates to the refusal of applications for planning permission and listed building consent. Although the legislative route by which a claim for costs differs for each application, the regime is the same.

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.
4. The claim is made on both procedural and substantive grounds. The applicant claims that the Council behaved unreasonably by considering the lawful use of the property to be Use Class C3(c) both at determination and at appeal; by introducing fresh and substantial evidence at a late stage and a new reason for refusal; by not determining the case in a consistent manner; and that the applications were policy compliant and should have been approved.
5. In the handling of the applications, the applicant claims that the Council failed to provide feedback on the acceptability or otherwise of the proposal not only on the principle of the development, but also on certain other aspects of the proposal; and that it was unreasonable to refuse the application for listed building consent in light of the comments of the Council's Conservation Officer. Email exchanges are before me detailing communications on various matters including (but not limited to) the

- principle of development, marketing, amendments to the scheme and viewings of materials/samples.
6. The PPG sets out that costs cannot be claimed for the period during the determination of the planning application, but all parties are expected to behave reasonably throughout the planning process. Further, that LPAs are required to work in a positive and proactive manner, seeking solutions to problems that may arise while dealing with planning applications.
 7. The first reason for refusal in regard to Appeal A references only criterion (n) of Policy H10 of Liverpool Local Plan 2013-2033 adopted January 2022. At page 5 of the Council's statement for Appeal A, the Council clearly contends that the development would conflict with criterion (b) and (n). This position is based upon the Council's Strategic Housing Market Needs Assessment (SHMNA) and its analysis of Houses in Multiple Occupation (HMO).
 8. The publication date of the SHMNA is given as May 2025. Although this appears to be before the decision date of the appealed applications on 5 August 2025, the Council states that it was published alongside the Consultation Draft of the emerging Liverpool Local Plan 2025-2041 after the applications were determined. This position is not disputed by the applicant.
 9. The Council's appeal submissions on the SHMNA were clearly made in the context of its emerging plan. It is not unreasonable for a Council to draw attention to an emerging plan and its evidence base during an appeal as a material consideration, including one that has reached a later stage than at the time of determination. Although the Council contended that the proposal would likely breach emerging policy, it clearly set out that the emerging plan would attract limited weight in accordance with the provisions of the National Planning Policy Framework (the Framework).
 10. Simply put, the Council's position at appeal was that new evidence demonstrated an increasing concentration of HMOs within the locality to a point where it considered that concentration to be harmful now or in the near future; and that the principle of protecting the supply of family dwellings was now proposed to be retained and augmented in the emerging plan. Nonetheless, a further criterion of an adopted policy was cited as a reason for refusal, and this could fall within the examples of unreasonable behaviour identified in the PPG.
 11. The applicant drew attention to examples of other decisions in the covering letter to the applications and within appeal submissions. In the applicant's view, these examples supported the principle of the proposal; and identified factors informing the suitability or otherwise of a property as a family dwelling in relation to relevant policy; and material considerations including marketing and the size of properties. These examples were considered by the Council at determination and/or at appeal, and reasons were given as to why they were not directly comparable.
 12. Moreover, no example involves a dispute regarding the lawful use of a building, including the example at 29 Holly Road for the conversion of a large family home to self-contained flats, granted one month earlier than the decisions for the scheme before me, albeit after a period of about 18 months for the completion of a legal agreement. The lack of feedback by the Council on marketing, despite repeated requests by the applicant, is an example of poor engagement by the Council, and I

have some sympathy with the applicant's frustrations in this regard. Nevertheless, the Council provided reasoning on this matter in the officer report (OR) which considered the application for Appeal A and in their appeal submissions. As set out in my decision letter, I share those concerns. I am therefore not persuaded that the Council acted unreasonably with regard to the first main issue in terms of consistency in decision making.

13. At the heart of this case is a fundamental disagreement between the parties on the principle of the proposal, founded on respective positions regarding the existing lawful use of the appeal site. The evidence indicates that the applicant had previously sought a certificate of lawfulness but had withdrawn that application on the Council's advice that it would not succeed. In the appealed applications, the applicant put forward a case on lawful use. In deciding the applications, the Council assessed the applicant's information regarding lawfulness and its own records and came to a reasoned conclusion, upon which a reason for refusal was founded. Therefore, in my judgement, the matter of principle could therefore only be resolved by appeal, such that it would not have resulted in unnecessary expense.
14. Consequently, the second limb of the test for costs has not been reached with regard to the first main issue in Appeal A. The fact that I have found in favour of the applicant on this first main issue does not alter this finding.
15. In considering whether the proposal would provide acceptable living conditions for future occupiers, I am satisfied that the Council provided reasons why other decisions were not comparable in the OR and in their appeal submissions. Although I have come to a different conclusion on some aspects of living conditions for future occupiers, I am satisfied that the Council's concerns were reasonably founded and clearly based on standards set out within the development plan and relevant guidance. The Council has not acted unreasonably in regard to this second main issue.
16. The reason for refusal for Appeal B concerns insufficient information, which is a matter of planning judgement. While the Council's Conservation Officer appears to have accepted vacuum glazing as a matter of principle, this is not the same as being satisfied with the information provided, and it is open to a case officer to disagree with a consultee. This reason for refusal was reasonably founded and substantiated at appeal by the Council. I have found against the applicant on this matter in my decision.
17. The determination period for the appealed applications was about 7 months. Much of the determination period was taken up with discussions to amend the scheme and the provision of further information and drawings. After the prescribed periods for determination, it would have been open for the applicant to appeal against non-determination. However, both parties appeared willing to continue to discuss the proposal such that further amendments were made and agreement was reached to extend the time periods for determination.
18. Although the parties were unable to complete arrangements to view a sample and/or materials used at other locations, there is no compelling evidence to suggest that the Council was unwilling to do so. While I understand the applicant's frustration at the time taken to resolve the applications, I have not seen sufficiently compelling evidence that the Council behaved unreasonably.

19. In my experience, it is not uncommon for proposals to be amended during the determination phase, particularly where they concern a listed building where the scope of works proposed is considerable and some elements of the works have already been carried out. Although a similar proposal was previously refused, it is not clear whether any formal pre-application services were engaged, which might have resolved any concerns about the proposal. From all I have read, I am satisfied that there were reasonable levels of engagement and co-operation between both parties to reach agreement on the details of the scheme. It is not unreasonable for a local planning authority to draw matters to a close without all details of a scheme being resolved to mutual satisfaction, particularly in the context of a dispute on the principle of a proposal.
20. Although I have reached a different conclusion on some of the planning merits at issue, the Council's decisions were not wholly unreasonable, nor unfathomable. The refusals did not prevent or delay development which should clearly have been permitted, having regard to the development plan, other material considerations including the Framework and the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.
21. Drawing all the above together, I find that the Council reasonably refused the applications and provided sufficient detail as to why it did not grant planning permission or listed building consent. It is therefore not the case that the appeals could have been avoided, nor that the applicant has incurred unnecessary and/or wasted expense in appealing the refused applications.

Conclusion

22. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Moore

INSPECTOR