

**Appellants' Cost Statement**  
Flat 10, 52 West End Lane, London

September 2019



Turley



# The Planning Inspectorate

## Application for an award of appeal costs

You can use this form as a template if you wish to apply for costs in:-

- a written appeal
- an appeal going to a hearing or inquiry, but you wish to give advance notice of an application for costs
- an appeal which is withdrawn (or where the enforcement notice is withdrawn).

Notes to help you are in part D

### A. Information about the claimant

Full name: Mr J and Miss E Reitman

Address: [REDACTED]

[REDACTED]

Postcode: [REDACTED] Your reference: n/a

Daytime telephone No: c/o Agent Fax no: .....

Email address: c/o Agent

Status (Appellant/Local Planning Authority/Interested Party):

Appellants

Agent's Name (if applicable): Mr Declan Carroll for Turley

Agent's Address: 8 Quy Court, Colliers Lane

Stow-cum-Quy

Cambridge

Postcode: CB25 9AU Reference: MRJH3004

Daytime telephone No: 01223810990 Fax no: .....

Email address: declan.carroll@turley.co.uk

-----  
Date Received (Official use)

**B. Information about the party being claimed against**

Full name: London Borough of Camden

Address: 5 Pancras Square, London

Postcode: N1C 4AG

Status (Appellant/Local Planning Authority/Interested Party):

Local Planning Authority

**C. Information about the appeal**

Planning Inspectorate appeal reference number APP/.....

(Please quote all appeal reference numbers if the costs application relates to more than one appeal)

Name of Local Planning Authority: London Borough of Camden

Description of the development: Ref. 2018/5657/P

Installation of 1 x rear and 1 x side facing dormer windows; installation of 4 x roof lights

Address of the site: .....

Flat, 10, 52 West End Lane, London, NW6 2NE

**D. Notes for guidance on your costs application – please read before going ahead**

Appellants, local planning authorities and anyone else involved with the appeal (the parties) are normally expected to cover their own expenses. But anyone involved in the appeal can ask the Secretary of State or appointed Inspector to order that one party pays some or all of another party's costs. Before agreeing to this, we will have to be sure that:

- the person applying was put to unnecessary or wasted expense in the appeal
- because of the unreasonable behaviour of the other party.

**An award can only be made if both these tests are met.**

Please write (in section E) how you think the other party has acted unreasonably and what expense this has caused you. **Please note that only the unnecessary or wasted costs of the appeal itself can be recovered by an award.**

Before going ahead with an application, your attention is drawn to The National Planning Practice Guidance web-based resource, which contains advice on the award of costs, in the Appeals section.

While there is no formal procedure or application form for making an application for costs you can use the template (below) to make an application for costs in writing.

The decision on your application will not go into the actual amount of costs involved – only the principle and, if an award is made, what the award is broadly for. So there is no need to state the actual amounts you are seeking. If an award is made, the parties will need to settle the amounts involved between them by negotiation; or, if that fails, by applying to the Senior Courts Costs Office for an independent decision on the matter.

When using the costs application form, to give advance notice of a costs application in a hearing or inquiry case, please send a copy of your completed application to the other party.

**Please also note there are time limits for making a costs Application** depending on the procedure for deciding the appeal. The Award of Costs Guidance provides relevant information.

## **E. Cost application**

- 1.1 The appellants' application is for a full award of appeal costs.

### **Unreasonable Behaviour**

*the unreasonable behaviour which has caused you unnecessary or wasted expense in the appeal*

- 1.2 The unreasonable behaviour and decision by the London Borough of Camden to refuse planning permission for the proposed development has caused the appellants' unnecessary and wasted expense in progressing this appeal.
- 1.3 The suggested reason for refusal provided by the London Borough of Camden is that: *"the proposed development, by reason of its siting, scale and design, represents undue harm to the character and appearance of the property and surrounding area, particularly given its prominence and public visibility within the conservation area. As such the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the Local Plan (2017), the London Plan (2016), and the NPPF (2019)."*
- 1.4 This decision fails to take account of the 2018 appeal decision (under ref. APP/X5210/W/18/3197457) which allowed an appeal against an earlier refusal and granted planning permission for the large majority of proposed works and near identical proposed development as sought by this new application. The only minor change relates to the introduction of an additional side dormer window to a matching 'scale and design' of that already approved. Its siting is discussed in detail in the supporting Appeal Statement of Case.
- 1.5 In reaching its decision, the London Borough of Camden has failed to give appropriate weight to the 2018 appeal decision as a material consideration in its decision making process. This remains an extant and implementable permission. This latest application appears to have been determined on the basis that the Local Authority is dissatisfied with what it refers to as an 'unfortunate' previous appeal decision, and not on the basis of whether it complies with the relevant planning policies and the statutory duty to preserve or enhance the character or appearance of the Conservation Area.
- 1.6 Had the Local Authority given due weight to the 2018 appeal decision (in relation to the same property) and accurately considered the surrounding context of neighbouring and nearby buildings, where such additions are prevalent and a well-established part of the character of the area, then the Local Authority would not have been able to justify or sustain the stated reason for refusal of this application. The introduction of a single additional side facing dormer window, which is to an identical design and scale to the dormer approved to the rear of the property under the same statutory and policy context, is not unacceptable such that it warrants or can substantiate the refusal of the proposed development. This is particularly so given that the proposed development has otherwise been considered acceptable previously. The 'scale and design' concerns should have fallen away by virtue of the extant permission, whilst the siting (and visibility) of the new side dormer window is acceptable for the reasons discussed in the accompanying Appeal Statement of Case.

- 1.7 Accordingly, the London Borough of Camden has been unreasonable in its decision to refuse planning permission for the proposed development, given that all of the matters raised by the 'reason' have been addressed in relation to this property under the 2018 appeal decision. Whether or not the Local Authority agrees with the 2018 appeal decision, it remains that the siting, scale and design of the large majority of the proposed development has been determined to be acceptable and in accordance with the stated planning policies, but also in accordance with the statutory duty to preserve or enhance the character or appearance of the Conservation Area. This should have remained the case for what is effectively a small variation to the approved development. Furthermore, it should be noted that the Local Authority made no attempt to defend its previous refusal under the 2018 appeal determination and has made no attempt to challenge the Inspector's decision. Accordingly, it is plainly unreasonable to now refuse planning permission in this instance, where the large majority of the proposed development has been approved against the same statutory and policy framework, and where the minor change to the approved development is similarly acceptable for the same reasons.
- 1.8 This appeal is therefore necessary by the appellants' owing to the unreasonable behaviour and unreasonable decision making of the Local Authority, which accordingly has put the appellants' to unnecessary and wasted expense.

#### **Costs Claimed**

*your unnecessary or wasted expense in the appeal (not the amount, but the kind of expense)*

- 1.9 The costs claimed therefore relate to the time and cost implications to the appellants associated with the preparation for and preparation of this appeal submission. This includes the use of professional consultants (Turley and Allen Smith Associates) to provide detailed and technical advice to the appellants on the appeal process, timescales and options available to the appellants in pursuing an appeal against the London Borough of Camden's decision to refuse planning permission for the proposed development. This includes the length of time taken to prepare a robust and detailed Appeal Statement of Case to respond to the single reason for refusal and incorrect considerations in the delegated report which have led to this unfortunate planning decision. The costs also include those associated with the preparation of this cost application and the monitoring of the appeal process and liaisons by the appellants' agents with the Planning Inspectorate. It may also include any requirement to respond to representations made the London Borough of Camden.

**Please sign below**

I understand that:

(a) use of this form is voluntary, and that the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my application for an award of costs;

(b) the costs decision resulting from processing my application will be published on the Planning Portal and will include relevant names but not addresses.

By signing this form I am agreeing to the above use of the information I have provided.

I have completed all sections of the form and confirm that details are correct to the best of my knowledge. (Please note: signature is not necessary for electronic submissions)

Signature ..... D.CARROLL for Turley .....

On behalf of ..... **Mr J and Miss E Reitman** .....

Name (in capitals) ..... **Declan Carroll for Turley** .....

Date ..... **03/09/2019** .....

The gathering and subsequent processing of the personal data you give on this form accords with the terms of the Planning Inspectorate's registration under the Data Protection Act 1998. More about the Planning Inspectorate's handling of personal information can be found in our "Personal Information Charter":

<https://www.gov.uk/government/organisations/planning-inspectorate/about/personal-information-charter>

**Please note exceptions below but otherwise send this form and any supporting documents to:**

The Planning Inspectorate  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

For the attention of your appeal case officer

Or e-mail it to the email address as shown on the letter(s) you have received from your appeal case officer.

**Exceptions - please note:**

**(1) Householder Appeals Service (HAS) & Commercial Appeals Service (CAS)**

Please ensure your costs application – if you wish to make one - is with your appeal form when submitting a HAS or CAS appeal. If you are submitting your costs application via the Planning Casework Service on the Planning Portal please attach it to the grounds of appeal as a separate document

If using the postal service please send your completed HAS/CAS appeal form along with your costs application to the address quoted on the appeal form.

**(2) Tree Preservation Order (TPO) appeals**

In the case of a written TPO appeal any application for costs should normally be made at the same time as the appeal. E-mail to: [environment.appeals@pins.gsi.gov.uk](mailto:environment.appeals@pins.gsi.gov.uk) or send the form to:

The Planning Inspectorate  
For the attention of the Environment Team  
Room 3/25  
Hawk Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN