



Costs Decision

Site visit made on 8 April 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 9th July 2025

Costs application in relation to Appeal Ref: APP/Q5300/W/24/3358004 24-26 Churchbury Lane, Enfield EN1 3TY

- 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 Mr Paul Buxton of Rosegem Ltd for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the demolition of the existing buildings providing supported living accommodation and erection of a detached 2-storey building with additional accommodation in the roof area, to provide 4 clusters of accommodation including 2 x 1-person self-contained units with associated office space for support staff, 5 individual bedrooms with ensuite facilities and shared facilities and 12 x 1 person self-contained units with additional and ancillary shared living accommodation and office space for support staff, all for residents receiving care (19 persons) (Class use Sui Generis) and provision of associated car parking, cycle parking and refuse/recycle storage (Amended Description).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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.
3. The PPG indicates that local planning authorities will be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal at appeal; vague, generalised or inaccurate assertions have been made about a proposal's impact, which are unsupported by any objective analysis; and where similar cases have not been determined in a similar manner.
4. The applicant considers that the Council's reasons for refusals were not based on any reasonable planning grounds, as they rely on technical points raised contrary to officer advice, without explaining why that advice was incorrect.
5. Regarding the living conditions of future occupiers, the Council raised several technical points in their reason for refusal, with specific regard to space standards, communal amenity provision, inclusive access, outlook, and fire safety. I have

found that each self-contained unit meets the minimum floor space standards, with some units larger than others. Although relevant policies do not explicitly set out the minimum communal amenity provision for assisted living sites, the amount provided for residents is sufficient when combined with facilities at nearby day care centres. In terms of accessibility, the plans clearly indicate the availability of turning and manoeuvring space for wheelchair users. The Council's Building Control officer raised no concerns regarding accessibility or compliance with building regulations. In any event, any detailed design issues falling under building regulations should be addressed at the appropriate later stage. Regarding outlook, all bedrooms would be served by windows, albeit a few of these would have obscured glazing. Nonetheless, all residents would have access to well-lit communal areas overlooking amenity space and the public highway. In terms of fire safety, the plans indicate no obstructions to private amenity spaces, with fire doors and evacuation routes clearly annotated. A fire strategy document was submitted and deemed acceptable by Building Control officers.

6. While the planning committee may refuse applications contrary to officer advice, any such decision must be supported by clear and rational planning justification. In this case, there is limited evidence before me to substantiate or to support this reason for refusal. Therefore, it has not been adequately demonstrated that this reason for refusal was reasonable.
7. Regarding the living conditions of the neighbouring occupier at 28 Churchbury Lane, I have acknowledged the increased intensity of use due to the number of residents and support staff. I have also considered the previous Inspector's findings that the use of obscure glazing may be inadequate. As such, while I have found that there would be no undue level of overlooking or loss of privacy, it was not unreasonable for the Council to be concerned that the proposed development could lead to privacy issues. Accordingly, I do not consider that the Council acted unreasonably in maintaining this objection, having regard to the particular circumstances of the site, the proximity of this neighbouring property and the nature of the development proposed.
8. Having found that the Council acted unreasonably, it is necessary to consider whether, and to what extent, that unreasonable behaviour resulted in unnecessary or wasted expense. In this case, the Council's failure, in my judgement, to properly substantiate its concerns regarding the living conditions of future occupiers led the applicant to prepare evidence and arguments to address those concerns, which would not otherwise have been necessary. I therefore conclude that the applicant incurred unnecessary expense in relation to that part of the appeal. However, I do not consider that the Council's behaviour in relation to the living conditions of a neighbouring occupier amounted to unreasonable behaviour, or that it caused the applicant to incur wasted or unnecessary costs on that issue. As the appeal itself was unavoidable due to the issues raised under the second reason for refusal, only costs specifically incurred at the appeal stage in relation to the first reason for refusal should be payable.
9. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the London Borough of Enfield shall pay to Mr Paul Boxton of Rosegem Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the first reason for refusal, concerning the living conditions of future occupiers; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to the London Borough of Enfield, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Lo

INSPECTOR