



Costs Decision

Site visit made on 17 July 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Costs application in relation to Appeal Ref: APP/H5960/W/25/3362601

266 Mitcham Road, Wandsworth, London, SW17 9NT

- 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 Ms Agnieszka Niwinska of Smaczny Kasek-Tasty Bite for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against the refusal of planning permission for the construction of new powder coated metal framed double glazed outbuilding pergola structure to rear yard of premises, forming additional seating area to main restaurant, plus small addition to existing rear addition forming new customer WC.
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Decision

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

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. Unreasonable behaviour on the part of a local planning authority may include it making vague, generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis, 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, and not determining similar cases in a consistent manner.
4. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
5. The applicant contends that the Council have failed to produce evidence to substantiate each reason for refusal at appeal stage. They go on to explain that the Council did not submit a Statement of Case to rebut the applicants view and their case officer report is based on vague, generalised and inaccurate assertions. However, the Council have clearly outlined their reasoning and substantiated their positioning on both reasons for refusal in their case officer report. The Council is not obliged to submit a Statement of Case at appeal stage, even if they previously indicated that they would. Furthermore, based on their reasoning, such conclusions are reasonable to make, without empirical evidence. Whilst I do not agree with their stance on the schemes impact on the character and appearance of the area, I do not consider that unreasonable behaviour has occurred on this point.

6. The applicant furthers their assertion that the Council made vague, generalised or inaccurate assertions about a proposal's impact, discussing how they have not provided any objective analysis to support their reasons for refusal or rebut the applicant's arguments. As outlined above, I consider that the Council have clearly set out their reasoning and substantiated their positioning on both reasons for refusal. The Council is not obliged to submit a Statement of Case to directly rebut each of the applicant's arguments. The fact that the applicant disagrees with the Council's position does not mean the Council have acted unreasonably. Also, the fact that only one neighbouring resident objected to the scheme does not equate to a lack of harm.
7. The applicant outlines how the Council have acted unreasonably through refusing to grant planning permission on a planning ground capable of being dealt with by conditions. They go on to explain that the Council acknowledged the opening hours of the restaurant and therefore could've used a planning condition to ensure no late evening noise. However, as outlined in my appeal decision, there would be increased noise and disturbance throughout the day. The outbuilding is in close proximity to a number of properties along Glasford Street, and the increased noise and disturbance would be harmful to their living conditions. I do not consider that the Council have acted unreasonably on this point.
8. Overall, the applicant contends that the Council have prevented or delayed development and as a result of the Council's actions has had to incur the expense of the appeal procedure. As outlined above, I do not consider that the Council have behaved unreasonably and therefore put the applicant to wasted or unnecessary expense.

Conclusion

9. Based on my reasoning above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For the reasons set out, and having regard to all other matters raised, an award for costs is therefore not justified.

S Burch

INSPECTOR