
Costs Decision

Site visit made on 30 July 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Costs application in relation to Appeal Ref: APP/P5870/W/24/3353771 26a-28 St Dunstan's Hill, Cheam, London, SM11 2EU

- 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 Adel Al Hassany on behalf of Trevi Homes Ltd for a full award of costs against the Council of the London Borough of Sutton.
 - The appeal was against the refusal of planning permission for the demolition of existing buildings and erection of a part 1, part 3 storey building, comprising Use Class E (retail) commercial space at ground floor and 3 self-contained residential units above, together with amenity space, provision of refuse storage and car parking to the front.
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Decision

1. The application for a full award of costs is refused, but a partial award 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. In claiming the costs of the appeal, the applicant contends that the Council behaved unreasonably in relation to timeliness, inconsistency of advice and failure to properly engage with the applicant throughout the planning application process and therefore delayed development which should clearly be permitted.
4. The Council determined the application within the prescribed period. While there was a short delay in the registration of the planning application, which arose from confusion relating to the need for a planning fee and whether the application was eligible for a 'free go', as a result of inconsistent advice provided by the Council, this has not resulted in any wasted expense in the appeal process.
5. The appellant indicates that, despite their request for an opportunity to review representations made in relation to the planning application and to discuss the proposal with the case officer, permission was refused without any further engagement from the Council. The Council says that it is standard practice for it not to disclose comments made by consultees in response to a planning application until after the application has been determined and the decision issued. While I am mindful that there is an expectation that applications are determined in a timely manner, such approach is not particularly customer focussed. Moreover, this would represent a lack of co-operation by the Council with the other party, specifically a delay in providing information and deliberate concealment of relevant evidence at

planning application stage, which the PPG indicates would constitute unreasonable behaviour. In this case, it clearly led to two issues that could have been resolved before the decision was made, being dealt with after the refusal of planning permission and subsequently falling away. Thus, while the appeal would not have been avoided altogether, this behaviour by the Council has caused the applicant to incur unnecessary or wasted expense in the appeal process in relation to the third and fourth refusal reasons.

6. I appreciate the appellants frustration with the way in which earlier applications were allegedly dealt with by the Council. However, the PPG¹ sets out that, while costs applications may relate to events before the appeal or other proceeding was brought, costs that are unrelated to the appeal or other proceeding are ineligible. In addition, it is clear that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.

Costs Order

7. 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 Council of the London Borough of Sutton shall pay to Mr Adel Al Hassany on behalf of Trevi Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the case pertaining to the Council's third and fourth refusal reasons relating to highway safety and sustainability respectively.
8. The applicant is now invited to submit to the Council of the London Borough of Sutton, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, such costs shall be assessed by the Senior Costs Office.

E Worley

INSPECTOR

¹ Paragraph: 032 Reference ID: 16-032-20140306