



Costs Decision

Hearing held on 2 July 2025

Site visit made on 2 July 2025

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Costs application in relation to Appeal Ref: APP/G5750/W/25/3362342

Aram House, 217 Romford Road, Forest Gate, London E7 9HL

- 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 Dilawar Properties Ltd for a full award of costs against the Council of the London Borough of Newham.
 - The appeal was against the refusal of planning permission for the redevelopment and extension of the existing building, mansard roof addition to create part 3, part 2 storey and stepping down to 1 storey at the rear to provide hostel accommodation (Sui-Generis) comprising 28 units with associated amenity space, access, cycle storage and green roofs.
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Decision

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

The submissions for Dilawar Properties

2. The costs application was submitted in writing. The application essentially relies on the fact that in the applicant's view the Council unreasonably concluded that the current use and the lawful use of the appeal site falls within Class C2 of Part C of Schedule 1 of The Town and Country Planning (Use Classes) Order 1987.
3. The appellant sets out that there was no evidence that the site falls within Class C2, that it has ever done so, or that the lawful use of the appeal site falls within Class C2. Rather, planning permission was granted in 1977 for hostel use and the planning history indicates that the use has not changed.
4. An employee of the operator of the hostel was present when the Council conducted the site visit, and any investigation of his role would have found that he does not provide care to the existing residents of the hostel. The applicant suggests that the Council's approach which found that the lawful use of the appeal site was as a C2 use was convenient to their case as they could then argue that there was a policy basis for attacking the proposed use.
5. The applicant sets out that they have incurred unnecessary costs as it was necessary to conduct a hearing and to instruct Counsel given the serious implications of the Council's view that there had been a change of use from hostel to C2. In addition, overall, the refusal was unreasonable. The applicant had engaged with the Council and there was no reasonable basis for the other reasons for refusal and even if they had been reasonable, the Council's approach in relation to the existing use of the appeal site meant that it was necessary to hold a hearing.

The response by the Council

6. The response was made orally at the hearing. The Council highlight that the rationale of finding that the use of the appeal site was a C2 use was not unreasonable, and it had been presented to the Development Committee and so had received a high level of scrutiny. Further, even if the appeal site is not ultimately found to fall within Class C2, the proposal would still lead to the loss of temporary accommodation for vulnerable tenants.
7. Moreover, the Council highlight that there were many reasons for refusal which in essence boil down to a difference in opinion on the planning merits of the case. The reasons are well founded and well documented and consequently the Council have not acted unreasonably.

Reasons

8. 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.
9. It is clear from my decision that I do not agree with the Council's view about the existing use of the appeal property. Consequently, I have a significant amount of sympathy for the applicant's position.
10. However, in an undoubtedly finely balanced decision I consider that in relation to the Council's assertion that the appeal property fell within a C2 use, the Council's behaviour just fell on the right side of reasonable. I accept there was some uncertainty about the current use of the appeal site and there was some information pointing to the possibility that care may be provided at the appeal property. I consider that the Council could have investigated this issue more thoroughly before making a decision. However, even at the point I picked up the case it was not entirely clear cut what the existing use of the appeal property was.
11. For that reason, I considered that a hearing was necessary, and in my pre-hearing note I requested that this matter should be addressed in the Statement of Common Ground and set a deadline of 23 June 2025. However, the letter from Sovereign Residential setting out the role of the Property Manager was dated 26 June 2025 and was sent to the case officer after the close of play on 30 June 2025 along with some Property Management Agreements. As I had requested this information as part of the Statement of Common Ground, I exceptionally accepted this late evidence.
12. To my mind it was only at this point, which was a few days before the hearing that I had more compelling evidence about the existing use. On that basis a hearing to discuss this new information was still necessary in order to finally clarify the existing use. Consequently, on balance I consider that in relation to the existing use issue the Council have not acted in such an unreasonable manner as to justify an award of costs.
13. I turn now to consider the other reasons for refusal. Whether or not the proposal would harm the character and appearance of the area, would provide acceptable living conditions for future occupiers, would provide suitably inclusive and

accessible accommodation or would harm the living conditions of neighbouring residents are all matters of planning judgement.

14. The Local Development Committee report and the Council's appeal statement make a sufficient case to support the Council's view. Their judgement is supported by specific references to policies of the development plan. Although ultimately, I have reached a different view on the planning merits I consider that the approach of the Council was reasonable.
15. In my judgement, when considered in the round, the Council's case was sufficient to raise concerns about the impact of the proposal in relation to those matters I have identified as main issues in my appeal decision. Overall, I do not consider that the Council has acted in such a way that it should be considered to amount to unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process.
16. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR