



Costs Decision

Inquiry held on 18 – 21 November 2025

Site visit made on 21 November 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19/12/2025

Costs application in relation to Appeal Ref: APP/Z5630/W/25/3363669

Land Rear of Kenwood Green Lane, Chessington KT9 2DS

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Kathleen Doherty and Mrs Bridgett Casey for a full award of costs against the Council of the Royal Borough of Kingston Upon Thames.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the proposed creation of 2 additional residential pitches for Gypsy/Travellers at an existing Gypsy/Traveller caravan site, each with 1 static caravan, 1 touring caravan and a brick built day room, and retrospective permission for the erection of a retaining wall together with land levelling engineering works.
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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. In response to whether costs can be claimed for the period during the determination of the planning application, the PPG explains that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account.
4. The appellants outline that an earlier planning application made for the same appeal proposal was never validated by the Council due to onerous validation requirements. As the extensive list of validation requirements was not met in full, the Council returned this planning application. The application subject of this appeal was then made and another list of validation requirements was issued, some of which differed from those requested for the earlier application. Following an exchange of further correspondence, the application was validated on 22 January 2025 with an 8 week target date of 19 March 2025.
5. The Council is right to highlight that an appeal was not made against the Council's refusal to validate the earlier application which was eventually returned. It is not the same application subject of this appeal. The appeal application was validated and processed.

6. During is processing, the Council requested an extension of time to allow the decision to be made on the appeal application after the 8 week target period. This extension of time was not granted by the appellants and was subsequently withdrawn. Without responding to a request from the appellant about whether a decision would likely be forthcoming by the target date, the Council issued its decision on 19 March 2026 with six reasons for refusal. These reasons and the appeal proposal's merits in relation to the same are set out in the separate appeal decision.
7. The appellants allege that the Council did not request any further information on the application and did not proactively engage with them prior to determining the appeal application. The application for costs also refers in much detail to the merits of the appeal, particular in respect of the need for Traveller pitches in the Borough. As set out, the merits of the appeal are more appropriately discussed in the separate appeal decision. I do not consider that the Council has behaved unreasonably for refusing the appeal application for the reasons that it did, particularly at that time, and particularly given the absence of evidence that eventually came forward through the preparation for, and discussion at the inquiry. Ultimately, I have not concluded that the appeal was avoidable in any event.
8. A particular issue is also taken in respect of reason for refusal six which relates to the sustainability and accessibility of the site. It is claimed that the Council was unreasonable for having reached the conclusion it did in this regard, particularly in light of the numerous example cases provided by the appellants.
9. The Council's position on the sixth reason for refusal changed a short time before the opening of the inquiry on the unavoidable appointment of an alternative planning witness. Whilst on the basis of its own planning judgement, the Council still sought to attach limited weight to the harms from the site's location and distance from facilities and services, it no longer wished to defend this reason for refusal.
10. The appellants' evidence on this aspect was presented concisely within its Statement of Case and Planning Proof of Evidence, with attached example decisions, including appeal decisions on other cases. Detailed evidence did not need to be sought from another independent expert and, following the Council's review of its position on the matter, it took up very limited inquiry time. As such, even if there had been an element of substantive unreasonableness on the Council's part for having refused permission for this particular reason based on a difference in planning judgement, the appeal was not entirely avoidable in any event and the costs incurred for addressing this aspect were particularly limited.

Conclusion

11. Having taken account of the parties' respective positions, the evidence does not clearly demonstrate that the Council has behaved unreasonably in relation to the appeal application. Material wasted expense, as described in the PPG, has not been demonstrated and, in the circumstances, an award of costs is therefore not justified.

H Nicholls

INSPECTOR