



Costs Decision

Hearing held on 10 February 2026

Site visit made on 11 February 2026

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2026

Costs application A in relation to Appeal Ref: APP/H5390/W/25/3375615

Grove House, 27 Hammersmith Grove, London W6 0NE

- 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 27 Hammersmith Grove Limited for a full award of costs against the Council of the London Borough of Hammersmith and Fulham.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the conversion of existing commercial accommodation (Class E) to a hotel (Class C1), including the retention of the auditorium (Sui Generis) and creation of active ground floor uses (Class E); in addition to landscaping, public realm, access and all associated works. Proposed design improvements include full height windows on the ground floor, a new smaller entrance canopy, windows added to the front and rear façade, a new evacuation lift, improvements to the rear external escape staircase, and new plant and associated enclosures on the roof.
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Costs application B in relation to Appeal Ref: APP/H5390/W/25/3375615

Grove House, 27 Hammersmith Grove, London W6 0NE

- 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 the Council of the London Borough of Hammersmith and Fulham for a full award of costs against 27 Hammersmith Grove Limited.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the conversion of existing commercial accommodation (Class E) to a hotel (Class C1), including the retention of the auditorium (Sui Generis) and creation of active ground floor uses (Class E); in addition to landscaping, public realm, access and all associated works. Proposed design improvements include full height windows on the ground floor, a new smaller entrance canopy, windows added to the front and rear façade, a new evacuation lift, improvements to the rear external escape staircase, and new plant and associated enclosures on the roof.
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Decisions

1. **Costs Application A** - The application for an award of costs is allowed in the terms set out below.
2. **Costs Application B** - The application for an award of costs is refused.

The submission and response for Costs Application A

3. The appellant's costs application was submitted in writing just prior to the Hearing. Given the timing of the submission, the Council were permitted to provide a response in writing, subject to a strict timetable. Final comments were subsequently made by the appellant on the Council's response, also in writing.

The submission and response for Costs Application B

4. During the Hearing, the Council confirmed its intent to submit an application for costs. This was submitted, in writing, at the same time as the Council's response to the appellant's application for costs pursuant to Costs Application A. The appellant provided a response to the Council's application in writing with the Council's final comments following thereafter.

Preliminary Matters

5. 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.
6. Although both main parties have submitted applications for costs against each other, many of the points raised by each party relate to similar issues and events, including:
 - the timing of the identification of the Council's own Sustainable Urban Drainage Scheme (SUDS) for Hammersmith Grove; and
 - the level of cooperation between the parties.
7. Consequently, I have considered both costs applications at the same time.

Reasons

8. I do sympathise with the Planning Officer regarding the timing of being alerted to the proposed SUDS shortly before the planning application was due to be presented to the Planning Committee in July 2025. Nonetheless, the SUDS project was being developed by the Council themselves, albeit by the Highways team, in response to severe flooding of Hammersmith Grove, amongst other roads, in July 2021, as evidenced in a Report to Cabinet dated 7 March 2022. Therefore, the intent to develop various SUDS projects across the Borough commenced before the planning application was submitted. As such, the lack of communication between various Council's teams, particularly during the application consultation period when views from the Highways team were sought, falls short of the standard to which it is reasonable to expect the Council to operate and behave.
9. Consequently, had the appellant been aware of the preparation of the SUDS project at an earlier point in the application determination period, there would have been the opportunity to resolve the potential conflict between the site access and the SUDS. This would have allowed the application to be heard by the Planning Committee and a non-determination appeal would have been avoided. On this basis, with specific regard to the matters relating to SUDS, I conclude that the Council has acted unreasonably and this has resulted in unnecessary or wasted expense for the appellant as part of this appeal.
10. Although the Council withdrew the indicative reasons for refusal, the Planning Inspectorate was not made aware of this until late on Friday 6 February 2026, via correspondence from the appellant, one working day before the Hearing. As a result, the outstanding disputed elements of the proposal related to several suggested conditions and a number of the proposed planning obligations. The Council therefore suggested that the appeal should be withdrawn to enable the

application to be presented to the Planning Committee in March with a recommendation for approval. The appellant chose not to do so and the Hearing was undertaken as planned the following week. I see no reason to conclude that the appellant's decision to proceed with the appeal demonstrates unreasonable behaviour, particularly given the ambiguity over the ability to transfer the jurisdiction to determine an application from the Planning Inspectorate to the Council.

11. In any event, agreement had not been reached by the main parties on whether a restriction on how long a guest could stay in the hotel was necessary or the public realm contribution amount. Therefore, continuation of the appeal was necessary to resolve these matters and the Hearing could not have been avoided.
12. It is evident from the chronology provided that, during the application process and as part of the appeal there has been significant dialogue between the parties, indicating a considerable amount of collaboration has occurred. This is understandable given the complexity of the proposal in terms of the uses proposed and the obligations sought. I do recognise, however, the frustrations experienced by both parties with the time taken to resolve some of the issues, particularly where inputs from other Council teams was required.
13. Nonetheless, the appellant's response to the SUDS matter was not, as alleged by the Council, to swiftly proceed to appeal against non-determination in an uncooperative manner, given the appeal was not submitted until 10 November 2025; over three months after the appellant was first made aware of the conflict between the proposed SUDS project and one of the existing accesses into the site. Instead, the evidence before me indicates that correspondence between July and November between the main parties demonstrates the appellant's desire to understand the status, design and implications of the Council's evolving SUDS project. As this appeared to be the key blocker to the application being heard at the Planning Committee, the appellant's approach to establishing the technical elements of the SUDS in this regard does not constitute unreasonable behaviour.
14. Nor does the timing of the submission of the appeal demonstrate an unwillingness by the appellant to engage with the Council when responses to the aforementioned correspondence were not received by the appellant until 8 December 2025, after the appeal was submitted. Moreover, the Council's decision to withdraw the indicative reasons for refusal were based on the provision of on-site attenuation measures. Such measures were suggested during the application process and within the appellant's appeal documentation. Why the acceptability of this approach was not indicated before 6 February 2026 is unclear. Had it been recognised earlier, further abortive work could have been avoided and the focus of the appeal narrowed to the suggested conditions and planning obligations.
15. As the appeal was submitted based on the Council's failure to determine the application, it is necessary for me, as the decision maker, to consider all the evidence before me, including matters which the parties may believe to be agreed. With specific regard to a planning obligation, it is necessary for me to consider it against the statutory tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) as to constitute a reason for granting planning permission, it must meet all three tests therein. Therefore, it is not unreasonable for the appellant to raise concerns regarding the compliance of the obligations with the CIL Regulations. In any event, as a signed and executed

legal agreement was not in place until after the Hearing, there was nothing in place which would bind the main parties to the obligations discussed.

16. Moreover, as set out in my Appeal Decision, I have found that many of the obligations sought by the Council do not meet the statutory tests and/or those set out in the National Planning Policy Framework.

Conclusions

17. **Costs Application A** - for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of matters relating to the reasons the Council would have refused the proposal had it determined the application, as set out in its appeal Statement of Case, and a partial award of costs is therefore warranted.
18. **Costs Application B** - unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Costs Order

19. 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 Hammersmith and Fulham (the Council) shall pay to 27 Hammersmith Grove Limited (the applicant), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the reasons the Council would have refused the proposal had it determined the application, as set out in its appeal Statement of Case; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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

Juliet Rogers

INSPECTOR