
Costs Decision

Site visit made on 26 November 2025

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2026

Costs application in relation to Appeal Ref: APP/P5870/W/25/3371477 79-85 Beddington Lane, Beddington, Sutton CR0 4TH

- 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 Suez Recycling and Recovery UK Ltd for a full award of costs against the London Borough of Sutton.
 - The appeal was against the refusal of the Council to grant planning permission for development described as 'Proposed Development of the Beddington Lane Anaerobic Digestion Facility including associated infrastructure and highway improvement works.'
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Decision

1. The application for an award of costs 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. Examples of unreasonable behaviour include preventing or delaying development which should clearly be permitted and vague, generalised or inaccurate assertions about a proposal's impact.
3. In this case, the members of the planning committee decided against the recommendation of the Council's officer. While courts have held that it is not unreasonable for a Council to disagree with professional advice, as is highlighted in the London Borough of Sutton's evidence, this is provided that decisions are based on material planning considerations and supported by evidence.
4. The reasons for refusing planning permission focus on potential traffic and odour impacts and appear limited to planning matters in this respect. There is also reference to relevant development plan policies. However, considerable evidence, including an Environmental Statement (ES) which comprises, amongst other matters, transport and air quality/odour assessments, has been submitted in support of this scheme.
5. These assessments, supplemented during the application process, demonstrate, to the satisfaction of relevant statutory consultees, that the development would not result in likely significant adverse effects in respect of these matters, subject to mitigation being secured. Assessments identified all sensitive receptors,

including residential properties and took account of local context and potential cumulative impacts. Indeed, the ES and other submitted evidence found that the development would not have a harmful impact on human health or living conditions in this area. Considerable evidence was therefore before the planning committee to give confidence that this development would be made acceptable in these planning terms.

6. In addition to this, the Council's officer found the scheme to be compliant with local and regional policies that seek sustainable waste management development in suitable locations. In general terms these matters may require some judgement. But in this case, the appeal site is allocated for strategic waste uses such as that proposed in this scheme. Diverting waste from landfill would also be a key benefit of the proposal, the development would be clearly compliant with local and national policy in this regard. Moreover, the supporting environmental information shows that the development would not result in unacceptable local impacts.
7. The scope to apply different judgements on these matters identified by the Council as reasons for refusal are limited by the above factors. In any event, if the decision of the committee is contrary to that advised, or a different weight is deemed to be applied, this needs to be supported by evidence and clear reasons given.
8. Despite these factors, the Council formed reasons for refusals (R for R) that were based on perceived risks and harms, rather than reasoned judgement based on evidence. No compelling evidence that challenges the applicant's submitted environmental information was presented by the Council. Nor has the Council advanced persuasive information that indicates that the development would result in unacceptable harms or that there would be any conflict with the development plan or national policy in this case. Although the R for R may deal with material planning matters, without defensible and substantive evidence supporting them, they lack legitimacy in my view.
9. I found the Council's case poorly reasoned and confused, particularly with regards the use of the proposed access road and the status of the extant permission at the appeal site. That permission permits a development that results in much more HGV movements at the site than would occur in this proposed scheme. And yet the Council, inconsistently and unreasonably in my opinion, persisted in suggesting that the development subject of this appeal would be harmful in highway safety terms and failed to back this assertion with any convincing information on this matter. While each proposal should be dealt with on its own merits, no substantive information is presented that the current highways and air quality conditions are considerably different to that which existed when that extant permission was originally granted.
10. While I may agree in my decision that additional measures are necessary to protect the tank area proposed. This is a matter which the Council could have easily addressed by condition. This was not therefore a basis to refuse planning permission. PPG is clear that refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.

11. The delay in issuing the decision notice may be justified and reasonable. However, for the reasons set out above, the Council prevented a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Furthermore, through this appeal process, it has failed to produce convincing evidence to substantiate its reasons for refusal. Indeed, the reasoning for the Council's decision is somewhat vague and generalised, and unsupported by any robust and objective analysis. Accordingly, I conclude that the Council has behaved unreasonably in all these respects. The consequence of this behaviour has led the applicant to incur wasted expense in appealing the Council's decision to refuse permission for a development that should have clearly been permitted in the first instance.

Costs Order

12. 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 London Borough of Sutton shall pay to Suez Recycling and Recovery UK Limited the full costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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

A J Sutton

INSPECTOR