



SAVE WIMBLEDON PARK LTD

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SWP success in defending costs protection for its legal battle

In February 2025 the High Court decided that SWP's case for judicial review was sufficiently strong to be allowed to go ahead. The Court also imposed a cap on the legal costs SWP would have to pay to the Mayor of London if its public interest challenge failed. The purpose of costs protection in this sort of claim is to enable community and other groups to take on environmental litigation against state and other substantial forces, even where there is a huge disparity of resources.

In February 2025, Mrs Justice Lang ordered that

- If SWP lose it must pay no more than £10,000 towards the costs of the Mayor, AELTC, Merton and Wandsworth together (i.e. a "cap" of £10,000 in aggregate); and
- If SWP win in the JR, the Mayor and AELTC must each pay £35,000 towards SWP's costs, (i.e. up to £70,000 in aggregate).

SWP still had to raise sufficient funds to pay its own legal costs and meet the capped adverse costs liability if it lost. SWP was hopeful but never certain that it could raise enough. After considerable effort by many volunteers and after generating much publicity and holding numerous community meetings, SWP has secured over 1200 donations totalling around £200,000 which was enough to continue the litigation in a proper and responsible way. Details of the progress of SWP's fundraising has been in the public domain from an early stage.

On 23 June and without prior notice to SWP, the Mayor applied direct to court to lift the cap of £10,000 on the grounds that there had been a "significant change in circumstances" of SWP, its financial resources having "radically increased" because of its fundraising activity. The Mayor's application was heard at the conclusion of the full hearing of the JR claim taking place on the 8 and 9 July. The Mayor's late application has taken up precious court time. SWP has had to incur extra legal costs in contesting it, which the court has ordered the Mayor to reimburse.

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In dismissing the application, Mr Justice Saini held that it would be wrong in principle for the Claimant to be faced with the risk that the costs cap would be retrospectively raised if it was successful in its campaigning.

The Mayor's application was an attempt to "move the goalposts" to divert money away from the purpose for which it was donated and score a tactical victory in the litigation. SWP has always made it clear that it intended to attempt to raise sufficient funds for skilled legal representation so that there would be some equality of arms between the parties. It is an indicator of the strong feelings about the issues of principle that donors have come forward to allow SWP to meet its target.

The Mayor's application should never have been made and the court's decision to reject it with an order for costs against the Mayor is very much to be welcomed and a relief for access to justice more generally for claims that may wish to be brought in future. It was an unnecessary distraction for SWP's legal team and has increased the time pressure in relation to the really important issues at stake in the JR.

The Judge indicated that he expects to hand down his judgment on the judicial review hearing itself before the end of July.

Christopher Coombe, director of SWP, said:

"We've had to work tirelessly to raise the funds needed to defend ourselves, so it was a real blow when the Mayor of London's team tried to lift the £10,000 cost cap by claiming there had been a "significant change in circumstances" because our financial resources had "radically increased". That increase came solely from relentless grassroots fundraising, not because we suddenly became wealthy.

"We are disappointed that the application was made, and we're relieved and proud that this tactic has failed."

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