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## Costs Decision

Site visit made on 23 February 2017

**by Mark Dakeyne BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20<sup>th</sup> March 2017**

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### **Costs application in relation to Appeal Ref: APP/P2365/W/16/3162636 73 Marians Drive, Ormskirk L39 1LG**

- 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 Ormskirk Lettings for a full award of costs against West Lancashire Borough Council.
  - The appeal was against the refusal of planning permission for the conversion of a dwelling to 5 bed student HMO.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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. The reason for refusal was based on existing residents' concerns about the additional noise and disturbance that would arise from another student House in Multiple Occupation (HMO) in this location, close to an existing HMO. It is not clear to me on what basis the Council's Environmental Protection Officer did not raise concerns. But in any event the Council was entitled to make a decision based on the particular experiences of those most likely to be affected by the change of use. These experiences did not amount to vague, generalised or inaccurate assertions notwithstanding that there was no technical evidence to support the case.
  4. The Council did not follow the advice of its Officer. However, the reason for refusal was substantiated at appeal stage by reference to specific evidence based on diarised incidents provided by local residents.
  5. The proposal did not breach the threshold of HMOs set out in Policy RS3 of the Local Plan. However, as I have reasoned in the appeal decision, compliance with the most relevant policy does not necessarily lead to permission. This is not a case which should have clearly been permitted having regard to the development plan, national policy and any other material considerations.
  6. There were similarities between the applications at 39 Marians Drive and 43 Ludlow Drive and the appeal proposal. That said, for reasons set out in the appeal decision relating to specific evidence and the location of HMOs, the circumstances did not appear to be directly comparable. Therefore, it was not
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unreasonable for the Council to determine the applications in a different manner.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Mark Dakeyne*

INSPECTOR