



Costs Decision

Site visit made on 11 July 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 17 July 2017

Costs application in relation to Appeal Ref: APP/Z4310/W/17/3173447 58 Sheil Road, Liverpool, L6 3AE

- 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 Ms Kate Leung for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission for a change of use from a 6 bedroom HMO with living room (Use Class C4) to a 7 bedroom HMO (sui generis use).
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

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 the costs to incur unnecessary or wasted expense in the appeal process.
3. The application was recommended for approval by the Council's officers. Members are not bound to accept the recommendations of their officers however, this does not exempt them from following the Planning Practice Guidance which says that Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
4. Examples of this are listed¹ in the PPG and include: "Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations" and "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis".
5. Whilst there is some subjectivity involved in assessing how living conditions might be affected, in this particular case, there has been no logical explanation of why 2 washrooms would not be sufficient for 7 people. The Council's defence of its decision has been vague in the extreme. Furthermore, the Council did not even quote any planning policy in its decision notice to indicate how the development would conflict with the development plan.
6. I consider that the development should have been clearly permitted and that the Council produced vague and generalised assertions about the proposal's impact which are unsupported by objective analysis. The Council has therefore

¹ Paragraph 049 Reference ID 16-049-20140306

behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

Costs Order

7. 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 Liverpool City Council shall pay to Ms Kate Leung, the 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.
8. The applicant is now invited to submit to Ms Kate Leung, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Siobhan Watson

INSPECTOR