
Costs Decision

Site visit made on 19 November 2019

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2019

Costs application in relation to Appeal Ref: APP/D1590/W/19/3236129 73 Salisbury Avenue, Westcliff-on-Sea SS0 7BA

- 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 Martin Saunders for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal of planning permission for change of use from 6 bed House in Multiple Occupation (HMO) (Class C4) to 7 bed House in Multiple Occupation (HMO) (Sui Generis).
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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 costs to incur unnecessary or wasted expense in the appeal process.
3. The Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
4. In this case, the Regulatory Services officer raised no objection to the proposal on the grounds of noise and disturbance and concluded that there would no material change from the 6 person HMO to a 7 person HMO. Yet little evidence was put forward by the Council to support the reason for refusal in order to establish that the increased occupancy would lead to increased noise and disturbance.
5. The harm that was identified by the Council was taken from a perceived lack of ability to control the occupancy of the HMO to 7 persons, however I have been provided with evidence that shows conditions have been previously used for similar development by the Council and no evidence has been provided as to why in this instance it was not deemed appropriate and therefore it has not determined similar cases in a consistent manner.
6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been

permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Southend-on-Sea Borough Council shall pay Martin Saunders of Property Point KAS Ltd the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Southend-on-Sea Borough 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G. Pannell

INSPECTOR