
Costs Decision

Site visit made on 5 September 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Costs application in relation to Appeal Ref: APP/F0114/W/20/3254832 Flat 14, Colleagues House, 130-132 Wells Road, Lyncombe, Bath, BA2 3AH

- 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 Gazelle Properties Ltd for a full award of costs against Bath & North East Somerset Council.
 - The appeal was against the refusal of planning permission for change of use from 1 x 2-bedroom residential flat (C3) to 1 x 3-bedroom small HMO (C4).
-

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 appellant submits that the Council has acted unreasonably and therefore caused the appellant to incur unnecessary expense. It is alleged that development was prevented that should have been permitted because the Council failed to properly assess the facts relating to the number of HMOs in the area.
4. At the planning application stage, the appellant queried the Council's inclusion of 5B Wellsway on the HMO database because it was not on the public register; the Council stated in their email of 5 June 2020 that it was an HMO. However, at the appeal stage, the Council confirmed that, although the site should still be included, confusion had arisen because the licence reference number on their database was incorrect. As will be seen from my decision letter, I do not consider that the Council's decision to include No 14 Hayes Place was reasonable without a clear explanation. For these reasons, I consider that the Council's behaviour has caused the appellant unnecessary expense because time and effort has been expended on a part of the case that should not have been pursued.
5. The initial dataset provided by the Council stated that 15 of the surrounding properties were HMOs. The appellant requested the list of these properties and, following scrutiny, the Council confirmed in an email of 5 June 2020 that the data were not up to date and 2 of these properties were removed. However, given that I have concluded that the number of HMOs within 100 metres is

above 10%, and debate remained regarding the status of 120 Wells Road, these mistakes would not have caused the appeal to be avoided.

6. 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 partial award of costs is justified.

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 Bath & North East Somerset Council shall pay to Gazelle Properties Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparing for and responding to matters relating to 5B Wellsway and No 14 Hayes Place; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Bath & North East Somerset 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.

B Davies

INSPECTOR