



Costs Decision

Site visit made on 10 August 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Costs application in relation to Appeal Ref: APP/G4620/W/21/3272067 113 Dudley Road, Tipton DY4 8DJ

- 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 Mr Harmohan Singh for a full award of costs against Sandwell Metropolitan Borough Council.
 - The appeal was against a refusal to grant planning permission for change of use from a single dwelling to a Large Scale HMO (Sui Generis).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However the Planning Practice Guidance ('PPG') explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.¹ Costs applications may relate to events, if not expenses incurred, before an appeal was brought.²
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 and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.³
4. The appellant's case for an award of costs is on substantive grounds. It relies on the fact that the Council Officers recommended that planning permission be granted but that Council Members took a different course of action without adequate reason to do so, and unnecessarily delayed the proposed development.
5. The Council's first reason expressed concern over harmful effects of the development on local character, with reference to specific development plan policies. Council Members are not duty bound to follow the advice of their professional officers, where planning grounds are identified to substantiate their reasons for reaching a different view. Whilst external changes to the

¹ PPG Reference ID: 16-028-20140306

² PPG Reference ID: 16-032-20140306

³ PPG Reference ID: 16-049-20140306

building would be limited, the Council's Statement of Case elaborates on this first reason for refusal, with particular reference to concerns about the provision of parking spaces in the rear garden of the property, which they consider would erode the historic character of the area. Although I concluded that the proposal would not have a harmful effect on local character and the extent to which its effects would be perceived outside of the site would be limited, it is not unreasonable that the Council concluded otherwise.

6. The second reason for refusal relates to an adverse effect on amenity by virtue of increased noise and disturbance associated with more intensive use of the building. In my decision I acknowledge that the proposal, by its very nature, would result in a more intensive use of the site, with more comings and goings. However in the particular circumstances of this case, I found that any increase in noise and disturbance would not unacceptably harm the living conditions of nearby residents with respect to noise and disturbance. This is due to factors such as the appeal site having its own driveway, separating the front access to the building from its neighbours. Nevertheless, given the greater intensity of use proposed, and whilst there was an absence of objections from statutory consultees in this regard, I do not consider that the Council having reached a different conclusion on this matter renders the reason for refusal as unfounded or amounts to unreasonable behaviour.
7. I am aware of the costs decision relating to twelve schemes for various HMO developments within Sandwell Metropolitan Borough, although the full details of those proposals are not before me. Nevertheless, in the circumstances of this appeal, I am satisfied that the Council's reasons for refusal were sufficiently clear and justified. Notwithstanding that I have reached a different conclusion to Council Members in allowing the appeal, for the reasons set out above, I conclude that unreasonable behaviour by the Council, resulting in unnecessary expense during the appeal process, has not been demonstrated. Accordingly, and having regard to all other matters raised, an award for costs is therefore not justified.