
Costs Decision

Site visits made on 17 August 2021 and 7 September 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 4 October 2021

Costs application in relation to Appeal Ref: APP/P0119/W/21/3273361 23 Lutyens Close, Stapleton, Bristol, BS16 1WL

- 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 South West Estates Management Ltd for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for 'the change of use from 4 no. bedroom dwelling (Class C3) to an 8 no. bedroom HMO (sui generis) as defined by the Town and County Planning (Use Classes) Order 1987 (as amended)'.
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Decision

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

Reasons

2. The Planning Practice Guidance ('PPG') 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's planning committee acted unreasonably by not substantiating the assertion that the proposal would result in an unacceptable proportion of HMOs, and having a lack of regard to the parking survey and plans which 'clearly show' that overall living conditions are acceptable.
4. Only larger HMOs require licensing and the number on the register may therefore not be a true reflection of the total number. The committee believed that they had additional local knowledge in this respect and concluded that there were too many in the area. Regardless of whether or not this is correct, no objective evidence has been submitted to substantiate this claim. This therefore constitutes a vague, generalised assertion, unsupported by objective analysis, thereby meeting the definition of unreasonable behaviour in the PPG.
5. The committee do not appear to have had regard to the parking survey and no explanation is given in the minutes as to why this was disregarded, despite the positive response from the highways department. In this regard, I find that there has been unreasonable behaviour.
6. As will be seen from my appeal decision, I do not find that the plans 'clearly show' that the communal living room would receive an acceptable level of

daylight. Furthermore, I do not agree that assessing the level of daylight in the property as a whole is supported by policy and guidance. In the absence of objective evidence, the sufficiency of daylight is necessarily a matter of planning judgement. For these reasons, I do not find that the Council behaved unreasonably in this respect.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in part and that a partial 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 South Gloucestershire Council shall pay to South West Estates Management 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 the effect of the HMO development on the character of the area and amenity of neighbours, and parking standards; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to South Gloucestershire 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