The Planning Inspectorate

Costs Decision

Site visit made on 29 November2021

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 7th December 2021

Costs application in relation to Appeal Ref: APP/U3935/W/21/3280636
2 Hermitage Lane, Swindon SN2 7QS

- 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 Joseph Fernandes for a full award of costs against Swindon Borough Council.
- The appeal was against a refusal of planning permission for a change of use from dwelling to 7no. person house in multiple occupation (sui generis).

Decision

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

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 applicant's application for costs turns on the Council allegedly making vague, generalised and inaccurate assertions during determination of the appeal application, to justify its reasons for refusal. It also argues that the Council adopted its Parking Standards[1] without a sound evidence base, which in turn led to refusal of the appeal application.

4. One of the Council's reasons for refusal related to the impact of the development on neighbouring amenity. It is accepted that HMO use will often have a different impact on residential amenity when compared to a traditional C3 dwelling. This is one of the fundamental reasons that HMOs have a different use class. By way of example, HMO development can sometimes exacerbate issues with street clutter (particularly refuse storage), as well as issues involving noise and disturbance, which is often attributed to a greater number of comings and goings from a property. Whilst I have ultimately concluded that such impacts wouldn't be unacceptable in this instance, given these disparities in impact which can sometimes arise, I do not consider it unreasonable for the Council to have reached a different conclusion.

5. Turning to the Council's Parking Standards. Prior to adoption, it's essential for draft versions of such documents to be carefully scrutinised and consulted on, to ensure their content achieves desired objectives, whilst also ensuring

[1] Parking Standards for New Development, February 2021

transparency of process. It's a natural part of the examination for such documents to be amended prior to adoption.

6. Whilst the parking standards for HMO development did change in this instance between the draft and adoption stage, the cabinet report[2] makes it clear that this change was implemented following concerns raised by cabinet members. In turn, a review of the standards was carried out (which included a workshop with Ward Members), with ultimately led to changes to the earlier published draft standards.

7. There is no tangible evidence before me to suggest that the conclusions reached were unreasonable or otherwise unjustified. Indeed, I consider that the adopted parking standards reflect the more transient nature of HMO occupiers who generally live independently from one another. It's therefore reasonable for HMO development to require a greater level of parking provision than a dwelling of equivalent size, where occupiers will typically live together as a single household. On this basis, and given the appeal application failed to adhere to these parking standards, it was reasonable for the Council to refuse the application.

8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in this instance.

James Blackwell

INSPECTOR

[2] Parking Standards for New Development, Planning Committee Report, 12 January 2021