



Costs Decision

Site visit made on 8 February 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Costs application in relation to Appeal Ref: APP/U4230/W/21/3282593 48 Cecil Road, Eccles, Manchester, M30 0FZ

- 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 Mrs Shazna Miah for a full award of costs against Salford City Council.
 - The appeal was against the refusal of the Council to grant planning permission for a change of use from C3 (dwelling) to C4 (HMO) (5 residents).
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Decision

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

The submissions for Mrs Shazna Miah

2. The application and response to the Council's rebuttal was made in writing.

The response by Salford City Council

3. The Council's response was made in writing.

Reasons

4. Parties should normally meet their own appeal costs and the *National Planning Practice Guidance* (PPG) says that irrespective of the outcome of the appeal, costs can only be awarded against a party which has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process.
5. The applicant says the Council refused planning permission solely on the basis of the size and internal layout of the rooms, saying this would not provide an adequate standard of amenity for future residents. The appellant adds that the layout was discussed with the Council's Planning Officer and HMO Officer before submitting the application and received their verbal support.
6. The application was considered to comply with development plan policies and was found to accord with the space standards for room sizes set out in the Council's adopted Standards for HMOs. Although the application was recommended for approval to the Planning and Transport Regulatory Panel its members took a contrary view, and the applicant says its decision was based on local opposition to the proposal rather than a planning judgement based on Council policies and guidelines and the advice of its own professional officers.

7. PPG Paragraph 049 states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example by preventing or delaying development which should clearly be permitted, 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.
8. Although the application was refused contrary to the officer recommendation, it is well documented that any views or opinions expressed by an officer do not necessarily reflect those of the Council. Nonetheless, the Panel members are expected to show they had reasonable planning grounds for taking a decision contrary to such advice, and to produce relevant evidence to support their decision.
9. The reason for refusal states that the application did not include information to demonstrate that adequate furniture and circulation space could be accommodated within several rooms in the proposed HMO. However, it seems to me that if this was the only concern, determination of the application could have been deferred to allow the applicant to provide such details in an attempt to address the Panel's concerns.
10. It is true that the Council's HMO standards offer guidance on the physical standards required for HMO licencing purposes, are not part of the development plan, and that compliance with the Standards is just one of the material considerations to which regard must be given in the consideration of a planning application. Although reference was made to saved Policy DES7 of the *City of Salford Unitary Development Plan 2004-2016* and Policy D5 of the emerging *Publication Salford Local Plan*, I found no convincing evidence to demonstrate why the proposed level of amenity (and in particular the room sizes) would be inadequate. The policies refer to 'amenity' in a fairly general sense and in the absence of detailed planning policies concerning acceptable room sizes, I consider it reasonable to have due regard to the HMO Guidance, as this Council document has been prepared to ensure that HMOs adhere to acceptable living standards.
11. Overall, I consider the Council has relied on somewhat generalised assertions about the size and layout of the rooms and their ability or otherwise to contain furniture and has manifestly failed to produce substantive and convincing evidence to support its one reason for refusal.
12. In the planning judgement, it appears to me that the having regard to the provisions of the development plan, the Council's HMO standards, and other material considerations, that the proposed development should reasonably have been permitted. Therefore, for the above reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG Paragraph 048, has been demonstrated in this case, and that a full award of costs is justified.

Costs Order

13. 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 Salford City Council shall pay to Mrs Shazna Miah the costs of the appeal

proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

14. The applicant is now invited to submit to Salford City 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.

Nigel Harrison

INSPECTOR