The Planning Inspectorate

Costs Decision

Site visit made on 9 August 2022

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2022

Costs application in relation to Appeal Ref: APP/Z4310/W/22/3291515
3 Halkyn Avenue, Liverpool L17 2AH

- 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 T Cowell (Your Student Living Ltd) for a full award of costs against Liverpool City Council.
- The appeal was against the refusal of planning permission for a Proposed Change of Use from Class C4 House in Multiple Occupation (HMO) for six occupants to a sui generis HMO for seven occupants.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The PPG[1] advises awards against a local planning authority may be substantive, or procedural for example by withdrawing any reason for refusal.

3. The applicant considers the Council has exhibited unreasonable behaviour following comments made in its statement of case at paragraph 3.1, after the appeal was submitted. The applicant considers that the Council has withdrawn parts of its case which it has relied on to refuse planning permission, which relate to the impact on increased activity on residential character and environment, thus leaving the effect of the proposal on the living conditions of neighbouring occupiers being the only remaining area of concern.

4. However, the Council states that paragraph 3.1 of its statement was to draw attention to the non-contentious elements of the proposal which were not in dispute, and which were already outlined in the officer report. It further states that, reference to residential character and environment in the reason for refusal forms part of the wider assessment of the proposal and that its statement at paragraph 3.1 does not alter its case at appeal. I note that the applicants appeal statement at para 4.2 includes a common ground list, that includes those elements of the proposal which the Council explains are not contentious.

[1] Paragraph: 046 Reference ID: 16-046-20140306

5. Although the wording of the Council's reason for refusal refers to the residential character, environment and amenity of neighbouring properties, it is clear from the Council's Officer Report that its concerns relate to the effect of the proposal on the living conditions of neighbouring occupiers. This is confirmed in the Council's statement which also confirms that following the adoption of the Liverpool Local Plan 2013 – 2033 on 26 January 2022 (LLP), after the appeal was submitted, that LLP Policy H10 is the key relevant development plan policy. The applicant addressed compliance or otherwise with Policy H10 in his statement of case and this was necessary given that it was cited in the Council's reason for refusal. Having regard to this, it seems to me that the Council's reason for refusal, read in the context of the Officer Report, relates to the effect of the proposal on the living conditions of neighbouring occupiers and alleged conflict with Policy H10, amongst other policies and guidance.

6. I therefore find that the Council's reason for refusal is complete, precise, specific, and relevant to the proposal and that it clearly sets out the policy of the LLP and Supplementary Planning Document, that the proposal is considered to be in conflict with. I do not consider that the Council sought to withdraw parts of its reason for refusal at appeal.

7. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is not justified.

K Williams

INSPECTOR