

Costs Decision

Site visit made on 23 November 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2022

Costs application in relation to Appeal Ref: APP/P0119/W/22/3295988 18 Braemar Avenue, Filton BS7 0TB

- 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 Sam Andrews of Redland Capital Ltd for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for what was originally described as change of use from a small house in multiple occupation for 3-6 people (C4) to a large house in multiple occupation for up to 7 people (sui generis), including extension to existing garage.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 expense in the appeal process.
3. The applicant asserts that the Council has acted unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations, has failed to produce evidence to substantiate each reason for refusal on appeal and has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The Council's first reason for refusal does not mention the SPD. The Council has not provided an appeal statement beyond a copy of the minutes of the committee meeting. The minutes do not convey that the committee made a meaningful analysis of the scheme against the SPD's approach; there is no obvious assessment of the appellant's clear, source-based evidence as to the percentage of licensed HMOs within radius of the site and in the wider area.
5. This suggests to me that the committee sought to side-step the SPD in its assessment and instead favoured local knowledge and the concerns of interested parties which were less tangible and less supported by comparable quantitative evidence. This cannot be held as reasonable conduct; the SPD is plainly a highly significant material consideration in this case, given that it embodies the Council's very own expression of how HMOs should be assessed against its own development plan, and as it was only published last year.
6. In terms of the second reason for refusal, Policy PSP16 requires four parking spaces for HMOs of the size proposed, but this can include on street parking.

The appellant offered straightforward evidence within the Covering Letter of adequate on street parking to serve the scheme and the Council's highway specialist did not object to the proposal. The appellant has augmented this with an unequivocal Parking Survey at the appeal. The Council has offered very little to support its divergence from this weight of evidence and expert opinion beyond vague, generalised assertions about the proposal's impact.

7. Given all this, and my decision to allow the appeal, I find that the Council should clearly have granted planning permission and was unreasonable not to do so. The development was unnecessarily delayed, and the applicant has been put to wasted expense in the process. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has therefore been demonstrated and a full 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 Mr Sam Andrews of Redland Capital Ltd 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.
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.

Matthew Jones
INSPECTOR