



Costs Decision

Site visit made on 16 December 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2023

Costs application in relation to APP/P4605/W/22/3300681

3 Glencoe Road, Birmingham B16 0PB

- 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 Ms Suna Terci against the decision of Birmingham City Council.
 - The appeal was against the decision to refuse planning permission for the 'Change of use from dwellinghouse (Use Class C3) to a 5 bedroom House in Multiple Occupation (HMO) (Use Class C4)'.
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Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 PPG indicates that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and persisting in objecting to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. The reasons for refusal as set out in the decision notice are complete, precise, specific, and relevant to the application. They also clearly state the policies of the development plan that the proposal would conflict with. The reasons for refusal have for the most part also been adequately substantiated by the Council in its Officer Report.
5. I do not agree with the Council in respect of the effect of the proposal on the supply of family homes. The Council based its first reason for refusal on the findings of its Strategic Housing Market Analysis (SHMA), as is encouraged by Policy TP30 of the Birmingham Plan 2031 Planning for Sustainable Growth. However, this was despite a very recent appeal decision for a HMO in which the Inspector identified that such an approach was flawed. Nonetheless, the

Council also refused the application on other grounds relating to the effect of the proposal on the living conditions of future occupiers.

6. As will be seen from the appeal decision, I have found that the Council had reasonable concerns about the impact of the proposed development on the living conditions of future occupiers which justified its decision. As such, the appeal could not have been avoided.
7. It therefore follows that I cannot agree unnecessary expense during the appeal process has been demonstrated, because of unreasonable behaviour by the local planning authority. An award for costs is therefore not justified.

Lewis Condé

INSPECTOR