



Costs Decision

Site visit made on 8 November 2022

by Nichola Robinson BA (hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Costs application in relation to Appeal Ref: APP/K0425/W/22/3303327 5 Mayhew Crescent, High Wycombe, Buckinghamshire HP13 6BX

- 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 A H Khan for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for change of use from C4 (HMO) to Sui-Generis (large HMO).
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive. In this instance, the applicant refers to the Council's alleged unreasonable approach during the processing of the planning application, in particular in relation to the amendment to the description of development without the applicant's consent. The applicant states that this behaviour caused the application to be refused, thereby necessitating the preparation of the appeal. The applicant seeks a full award of costs.
3. The Council amended the description of development without the agreement of the applicant. The amended description did not reflect the proposal which had been applied for and consequently the Council made inaccurate assertions about the impact of the proposal. This included the assertion that the proposal would be tantamount to the creation of a new dwelling, thereby resulting in harm to the character and appearance of the area, harm to the living conditions of neighbouring residents and unacceptable living conditions for future occupiers. This resulted in the refusal of planning permission. I have found in favour of the applicant with regards to all 3 main issues. Whilst reasonably substantiated evidence for each reason for refusal was provided by the Council, nonetheless the Council failed to determine the application as applied for by the applicant and this ultimately led to the refusal of the planning application.
4. I therefore find that substantive unreasonable behaviour, resulting in unnecessary or wasted expense, as described in Planning Practice Guidance,

has been demonstrated and that an award of costs is justified.

Costs Order

5. 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 Buckinghamshire Council shall pay to Mr A H Khan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Costs Office if not agreed.
6. The applicant is now invited to submit to Buckinghamshire Council, details of those costs with a view to reaching agreement as to the amount.

Nichola Robinson

INSPECTOR