



Costs Decision

Site visit made on 24 October 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Costs application in relation to Appeal Ref: APP/F5540/W/23/3317680 107 Tachbrook Road, Feltham, Hounslow TW14 9PD

- 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 S Patel for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of planning permission for change of use from 6-bedroom HMO (Class C4) to 9-bedroom HMO (*sui generis*).
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that 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.
3. The applicant considers the Council has exhibited unreasonable behaviour with respect to the substance of the matter under appeal. He states the Council has wrongly asserted that the appeal premises are not in use as a house in multiple occupation (HMO) and could not in fact be in that use. He argues that, as a result, the Council wrongly applied its development plan policies to the proposal and that its reasons for refusal are therefore unsubstantiated. He adds that the Council's approach did not follow well-established case law. The applicant has raised particular concerns with the Council's reliance on Policy SC10 of the Hounslow Local Plan (HLP) in making its decision.
4. The Council changed the description of development in its decision to "Change of use to 9-Bedroom HMO". The explanation provided in the Council's decision report is that the premises were not on the Council's HMO register at that time; that neighbours were of the view that the building was not in use as a 6-person HMO; and that this had been confirmed by the Council case officer during a site visit.
5. Nevertheless, the Council's decision report acknowledges at paragraph 2.2 the potential fallback position open to the applicant. In that position, if the existing use of the premises was established as a dwelling house within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (UCO), this could change to Class C4 (HMO for not more than 6 residents) with permission granted under Article 3(1) and Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015.

6. The Council's decision does not consider whether change of use from C3 to C4 would be lawful or conclude whether a C4 use would be possible. The conclusion in the report is confined to the proposal for change of use to a 9-bedroom HMO. As set out in my appeal decision, it is open to the applicant to apply to have the existing lawful use of the premises determined under sections 191 or 192 of the Town and Country Planning Act.
7. I have considered the applicant's concerns about the Council's reliance on Policy SC10 of the HLP in my appeal decision. I have found that Policy SC10 is relevant to the creation of a 9-bedroom HMO, irrespective of the existing use of the site. Consequently, whatever the existing lawful use of the appeal site, the Council was reasonable in determining the planning application against Policy SC10. The other policies relied on by the Council (Policies EQ7 and EC2 of the HLP) are relevant to a wide range of types of proposed development and are not specific to HMOs. The Council was therefore reasonable in determining the planning application against those policies also.
8. There is little evidence before me to substantiate the concern that the Council has not followed well-established case law.
9. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Carpenter

INSPECTOR