

Costs Decision

Site visit made on 26 March 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Costs application in relation to Appeal Ref: APP/Z4310/W/23/333244162 62 Woodlands Road, Liverpool L17 0AP

- 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 J Taylor, of Hawksmoor Properties, for a full award of costs against Liverpool City Council.
- The appeal was against the refusal to grant planning permission to continue to use premises as an 8-person HMO and carry out internal alterations.

Decision

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

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. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant has set out that the Council has wrongly identified the location of the proposed development; referencing policies that do not support the reasons for refusal; failed to attribute weight to the realistic and legitimate fallback option; reached conclusions that contradict statutory consultee responses and contradictory conclusions and made unreasonable assumptions about future occupiers.

Procedural

5. The Councils Delegated Report (DR) incorrectly gives a different location of the appeal site. Nonetheless, a photograph on the front page of the DR clearly shows the appeal property. There are also numerous references to Woodlands Road. Therefore, there is no doubt in my mind that this was nothing more than an unfortunate typographical error. Therefore, I do not conclude that this error amounts to unreasonable behaviour.

Substantive

6. The Council identify and acknowledge that an application for a Lawful Development Certificate, to change the use of the property from a

¹ Paragraph: 049 Reference ID: 16-049-20140306

dwellinghouse to a House of Multiple Occupation (HMO) for 3-6 persons (Use Class C4) was granted. This is a legitimate fallback position that should have been afforded weight in the determination of the application.

7. Despite detailed evidence being provided by the appellant, the Council continued to incorrectly maintain that there was no fallback position in this case. Crucially, the failure to accept the legitimate fallback position resulted in them failing to properly evaluate the application. This inaccurate assertion had a significant influence on the Council's case and subsequent reasons for refusal, which also resulted in a failure to make an objective assessment of the development overall. The evidence was also, in some instances, contradictory and overall, it therefore amounts to unreasonable behaviour.
8. In all other respects, while the Council went against the advice of the Highways Authority and the Council's Environmental Protection Unit, I do not consider that this amounts to unreasonable behaviour in itself. Likewise, I am also content that the inclusion of policy H7 in Reason for Refusal two was justified because the appeal site is located in an area identified as a primarily residential area. The Council had concerns about the effect on this area in terms of the impact on residential amenity and the character of the area.
9. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. Consequently, the application for a full award of costs is allowed.

Costs Order

10. 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 Liverpool City Council shall pay to Ms J Taylor, of Hawksmoor Properties, 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.
11. The appellant is now invited to submit to Liverpool City 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.

N Bromley

INSPECTOR