



Costs Decision

Site visit made on 3 September 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 OCTOBER 2024

Costs application in relation to Appeal Ref: APP/P5870/W/23/3331307 16B Hawthorn Road, Sutton, Wallington SM6 0SX

- 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 Echo Property Services for a full award of costs against the Council of the London Borough of Sutton.
 - The appeal was against the refusal of planning permission for change of use from 6-bed house of multiple occupancy (Class C4) to 8-bed house of multiple occupancy (Sui Generis).
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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 cites the unreasonable behaviour on the part of the Council in failing to assess 'this matter' in accordance with planning law and practice. They do not expressly state exactly what 'this matter' is. However, based on the context of the proceeding paragraphs of their statement, it appears that the applicant submits that the Council has acted unreasonably in requiring the submission of an application for planning permission for the intensification of the existing use of the building. They assert that 'pure intensification of a use does not bring about a "material" change of use requiring planning permission'. They have also provided several examples of caselaw where the question of whether the 'intensification' of an existing use represented a material change, was considered. They also consider that the Council's assessment of the application was unreasonable.
4. Planning Practice Guidance gives further advice as to when local planning authorities will be at risk of an award being made against them. The examples listed as unreasonable behaviour on procedural grounds include preventing or delaying development which should clearly be permitted.
5. The change of use of the building from a small house of multiple occupation (HMO) to a large HMO for eight people, represents a change from a C4 use class to a sui generis use and constitutes a material change in planning terms and falls under the definition of development under the terms of the Town and Country Planning Act 1990. Further, within their delegated report the Council provided a clear and reasoned justification for its decision, which was based on policies within its current development plan.

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6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Livingstone

INSPECTOR