



Costs Decision

Site visit made on 22 October 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th November 2024

Costs application in relation to Appeal A Ref: APP/V4250/W/24/3346626 131 Wigan Lane, Wigan WN1 2NB

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 K Repova for a full award of costs against Wigan Metropolitan Borough Council.

The appeal was against the refusal of planning permission for the Change of use from dwellinghouse (Use Class C3) to a 5 bed, 6 person HMO (Use Class C4), together with associated external alterations.

Costs application in relation to Appeal B Ref: APP/V4250/W/24/3341815 131 Wigan Lane, Wigan WN1 2NB

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 K Repova for a full award of costs against Wigan Metropolitan Borough Council.

The appeal was against the refusal of planning permission for the change of use from dwelling house (Class C3) to 7 bed, 7 person house of multiple occupation (Sui Generis) together with associated external alterations.

Decisions

1. The applications for an award of costs are 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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Moreover, it indicates that local planning authorities are at risk of an award of costs if they behave unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant submits that the Council has acted unreasonably by considering aspects of the schemes that do not require planning permission and by not considering the schemes against the fallback position from the existing use of

the property as a dwelling. Moreover, it is put to me that the Council has provided vague and unsubstantiated assertions on the impact of the schemes.

5. The schemes sought the change of use from a dwelling to a House in Multiple Occupation (HMO). In doing so it is not unreasonable for the Council to assess the impacts from the works sought that are directly associated with that change of use. This includes alterations to windows, use of rooms, bin, and cycle storage. Moreover, there is a difference in how a bedroom is used in a HMO given the change in dynamic between the use of the building and its occupiers and changes to the layout. These aspects mean that the function of a bedroom in a HMO is not directly the same as that in a C3 dwellinghouse.
6. The fallback position, and the likely implementation of the fallback position, was a material consideration in both appeals. For example, in the event of a refusal the second-floor bedroom would continue to be used as a bedroom associated with the existing use, there would be the potential for bins (associated with the existing dwelling) to be stored to the front, bikes stored to the rear or alterations to the rear windows. The Council did not fully consider these elements within its officer report. However, it did substantiate its concerns and quantified where it considered the scheme to be contrary to its policies and its Supplementary Planning Guidance for HMOs.
7. It will be seen from my decisions that I have not fully agreed with the Council's findings of harm in all instances. However, I have agreed on most points, even having regard to the fallback positions. Moreover, whilst I have been referred to an appeal decision, the fallback position in that instance was of a smaller HMO that was in the process of being implemented, in contrast to the appeals before me. In that regard, I have not found the fallback positions to be decisive considerations in the appeals.
8. Consequently, and considering my findings in the appeals, the Council has not delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
9. Accordingly, I determine that both of the costs applications should fail, and no award is made.

Mr R Walker

INSPECTOR