



Costs Decision

Site visit made on 18 December 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 JANUARY 2025

Costs application in relation to Appeal Ref: APP/T5720/W/24/3342437

8 Harwood Avenue, Mitcham CR4 3AS

- 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 Girish Gowda for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against the refusal of planning permission for change of use of the property from a 5-bedroom House (Class C3) to a 6-bedroom/6-person HMO (Class C4).
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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 (the Guidance) 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 first element of the appellant's claim is that the Council has attempted to wrestle control of an existing situation which is beyond the scope of control of a Planning Application, and that it sought to take control of a matter that is permitted development.
4. However, the area is subject to an Article 4 Direction which removes permitted development rights for the conversion of homes (Use Class C3) to small houses in multiple occupation (HMOs) (Use Class C4). The appeal proposal is for a change of use of the whole property from a house to an HMO. Therefore, all aspects of the proposal were before the Council when it made its decision, including the internal arrangement of the property and the provision of amenity space.
5. Even allowing for the fallback scheme of a permitted 5-bedroom HMO, that previous planning permission controlled the number of bedrooms and occupants. Those matters could therefore be considered by the Council as part of its consideration of the planning application for the appeal proposal.
6. The second element is that the Council has relied on vague and unsubstantiated assertions on the impact of the development to justify a reason for refusal. However, although I have disagreed with the Council's decision on the matter of the provision of internal amenity space, the HMO SPD specifies that the space standards should be viewed as a minimum. On that basis the Council's concerns on this matter are not without foundation. I have also agreed with the Council in respect of the poor access to the rear garden.

7. I have concluded that concerns on cycle and waste storage as well as flood risk can be addressed by conditions. However, given the characteristics of the appeal proposal including the constrained nature of the site and evidence on flooding, I do not consider that the Council's concerns on these matters are so without foundation as to represent unreasonable behaviour.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Cross

INSPECTOR