
Costs Decision

Site visit made on 20 February 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

Costs application in relation to Appeal Ref: APP/A2280/W/24/3348790 87 Rock Avenue, Gillingham, Medway ME7 5PX

- 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 Rishabh Dawar, Blue Chip Properties Ltd for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for Formation of front lightwell to create an additional bedroom to facilitate the enlargement of a large HMO (Sui Generis) from 7 to 8 bedrooms.
-

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 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. The Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
4. The applicant considers that the Council did not have regard to the submitted Internal Daylight/Sunlight Report (DSR), nor did the Council commission its own alternative DSR. The applicant also states that it is unclear what evidence the Council based its decision on, and questions why the Council requested the submission of the CAD model to accompany the DSR.
5. I note that the Council's reason for refusal refers to daylight. This incorrect reference is an unfortunate error. However, as explained within my appeal decision, it is clear that the Council's concerns were related to the sunlight exposure within the basement.
6. I understand that the Council raised concerns about the lack of CAD model within the DSR submission. Regardless, the officer report and the Council's Statement of Case refer to the submitted DSR and provide a detailed explanation as to why the Council refused the proposal. It is quite clear that the Council reviewed the DSR and that the refusal was predicated on the sunlight exposure results which are

outlined within the DSR. For this reason, it was not necessary for the Council to provide their own alternative DSR. The officer report and Statement of Case also clearly articulate the Council's concerns that occupiers of Houses in Multiple Occupation are likely to spend longer periods of time within their bedrooms, further explaining the Council's concerns in relation to the limited sunlight exposure.

7. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Council were not unreasonable in coming to that decision, and indeed following consideration of the appeal on its merits alone, I find no reason to disagree with the Council's conclusions.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

B Pattison

INSPECTOR