
Costs Decision

Site visit made on 7 May 2025

by **Hannah Guest BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025.

Costs application in relation to Appeal Ref: APP/P4605/W/25/3359535 155 Prince of Wales Lane, Birmingham B14 4LR

- 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 Junaid Raza for a full award of costs against Birmingham City Council.
 - The appeal was against the refusal of planning permission for change of use from C4 HMO to 8-bed HMO (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 PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and not determining similar cases in a consistent manner.
4. The applicant states that the Council has acted unreasonably, as it based its assessment of the application on an incorrect starting point that the appeal property because of an Article 4 Direction, cannot be occupied lawfully as a 6-bed HMO. Hence it argued, incorrectly, that the change of use subject of the application is from a 4 to 8-bedroom HMO. The applicant also considers this approach to be inconsistent with the determination of similar applications by the Council and therefore considers the Council not to have been consistent in its approach to decision making.
5. There is no substantive evidence before me that supports the Council's claims that the appeal property, because of an Article 4 Direction, cannot be occupied lawfully as a 6-bed HMO. I appreciate the frustration of the applicant in these circumstances, and I understand the need for consistency in decision-making.
6. Nonetheless, the reasons for refusal refer to more than just the intensification of the HMO use as a result of the increase from 4-bedrooms to an 8-bedrooms. The Council's determination also derives from the cumulative effects of the proposal in

combination with the 8-bedroom HMO at 157 Prince of Wales Lane. This is clearly referred to in the Council's reason for refusal set out on the Decision Notice and detailed in the Council's officer report. Given this, I am of the view that an appeal would have still been necessary, even if the Council had assessed the application from a starting point of a 6-bedroom HMO.

7. The context used to assess the proposal would have been different to that used to assess the two similar applications at 157 and 149 Prince of Wales Lane, as the nearby HMO use would have been less intensive at that point in time. Accordingly, the applications at 157 and 149 Prince of Wales Lane do not identify the cumulative effects of noise and disturbance as an issue.
8. In this case, although the Council's behaviour with regards to the starting point of the application was not helpful, for the reasons detailed above, I do not find that the Council delayed a decision which should have otherwise been allowed. While I concluded the proposal not to result in any appreciable harm to the character of the appeal property or immediate area, or the living conditions of future and existing occupants, it was not unreasonable for the Council to come to a different conclusion on the cumulative effects of the proposal. As such, the applicant's costs associated with the appeal were a necessary part of the process.
9. I conclude that it has not been demonstrated that unreasonable behaviour has resulted in an appeal which would not have otherwise been necessary, or in unnecessary or wasted expense, as described in the PPG. An award for costs is therefore not justified.

Hannah Guest

INSPECTOR