
Costs Decision

Site visit made on 22 April 2025

by **D Ellis MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th June 2025

Costs application in relation to Appeal Ref: APP/J3015/W/25/3361417 108 Long Lane, Attenborough, Nottinghamshire NG9 6BW

- 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 Hollywell Property Investments Limited for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of planning permission for change of use from 6 bed HMO (Use Class C4) to 7 bed HMO (Sui Generis).
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Decision

1. The application for an award of costs is refused.

Procedural Matter

2. The applicant does not state whether a full or partial award is sought. However, by reason of the information contained within the application, I have interpreted it as being one for a full award and have proceeded on that basis.

Reasons

3. 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.
4. It also sets out that a local planning authority is at risk of an award of costs for preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.
5. The applicant asserts that the Council have based their decision on a vague, generalised and inaccurate assertion about the proposal's impact on existing occupiers, that the claims are unsupported by any objective analysis, and that the Council have not presented full and detailed evidence to substantiate their reason for refusal.
6. The planning application was recommended for approval by officers and placed before Council Members for a decision. It is well established that Council Members do not need to follow the advice of their professional officers and are open to exercise their own planning judgement, but in doing so are required to adequately substantiate their position.

7. I have disagreed with the Council's reason for refusing permission with regards to the effect of the development on the living conditions of current and future occupiers, with particular regard to shared amenity space. However, this does not mean that the Council have acted unreasonably in refusing the application.
8. The minutes of the Committee meeting have not been provided and as such I am not aware of exactly what was discussed by Council Members or whether any objective analysis was carried out. Nevertheless, whether a scheme provides adequate amenity space can be a subjective matter. Even if the amenity space satisfies the House in Multiple Occupation (HMO) licencing standards, these are separate to planning requirements. Adherence to the licencing standards does not automatically mean that a proposal would be acceptable in planning terms.
9. It seems to me that in this case there was a fundamental disagreement between the parties over the merits of the scheme. The decision to refuse the scheme was not unreasonable.
10. Whilst the Council's reason for refusal could have been more detailed, it is not entirely vague or without substantiation and has outlined why they considered the proposal would be unacceptable. The relevant development plan policies were also cited. I note that the applicant was able to identify the Council's specific concern and refers solely to 'adequate communal space for all occupants' in the 'Grounds of Appeal' section on page 3 of their appeal statement. Some additional reasoning, albeit brief, is later provided in the Council's appeal statement. Overall, I am satisfied that the Council adequately substantiated their position, have not made vague assertions and clearly set out their reason for refusal.
11. The applicant refers to two previous planning applications for conversions from 6-bed HMO's to 7-bed HMO's¹, which were later granted planning permission on appeal. I note that in both of these cases, as well as in the appeal before me, one of the Council's reasons for refusals has been on the grounds of residential amenity. Nevertheless, as no substantive details of these previous applications or the subsequent appeals have been provided, I have no evidence before me that the shared amenity space of the other properties is comparable to the appeal proposal. I am therefore not persuaded that the Council have determined similar cases in an inconsistent manner.
12. The applicant has also asserted that the loss of rental income per month plus other fees on a monthly basis since the application has been refused has resulted in a large financial cost and loss to the applicant. However, the PPG states that cost awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
13. Therefore, for the reasons above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Ellis

INSPECTOR

¹ Planning application refs. 23/00049/FUL and 21/00052/FUL