



Costs Decision

Site visit made on 24 June 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

Decision date: 11 July 2025

Costs application in relation to Appeal Ref: APP/U2235/W/25/3360945

27 Charles Street, Maidstone, ME16 8ET

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Scott Nickless for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for change of use of the property from a dwellinghouse to an 8-bedroom House in Multiple Occupation.
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Decision

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

Reasons

2. 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. The general principle embodied within the PPG is that the parties involved should normally meet their own expenses.

The application

3. The planning committee failed to have proper regard to the relevant policy context and accept the proposal's conformity with the relevant policies. No substantial reasons were provided by the Committee in their decision making to differ from the views offered by the case officer. Whilst the Committee is not bound to follow the advice of officers, there is a reasonable expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence to support the decision in all respects. That very clearly did not happen in this instance.
4. There was a failure to explain how the development would result in significant harm both individually and cumulatively to the character, appearance and amenity of the area. There is no external alteration apart from the installation of two windows in the basement, added to provide additional light to the future occupiers. These alterations followed comment/suggestion from the consultee and were agreed with the case officer.
5. The change of C3 to C4 HMO does not change the residential character of the area. Most houses, including this property, have bin storage at the front and this is the existing situation. The bin storage is inside the house boundary and is screened by the fence. It can be placed outside during waste collection. It appears that the committee attempted to refuse the application based on the existing situation

(which is lawful) and, as such, have caused the appellant to incur substantial waste of time and expense. A full award of costs is justified in this case.

The response

6. The planning committee exercising the right to make a decision on a planning application does not amount to unreasonable behaviour, but is part of the democratic process
7. Whilst reference is made to the negative visual impact from waste storage, poor building setting, etc, the appellant suggests that assessment of character is restricted to external alterations and use. Character cannot be restricted to land use as this would result in the conclusion that an inner city area with blocks of flats has the same character as a detached house in the countryside. Contrary to the appellant's stance, an appeal court judgment confirmed that local character does not have to be confined to physical attributes (*Kazalbash v Secretary of State for Levelling Up, Housing and Communities. Case Number: CA-2022-001504*). The predominant use in the area surrounding the appeal site is modest single family housing. The impact of a single family house (including waste storage and on street parking) is significantly less than that associated with a high density 8 bedroom HMO.
8. The planning committee correctly considered the application based on the matters before them. The application as described by the appellant was for "Change of use of the property from a dwellinghouse to an 8-bedroom HMO (Sui Generis)" The decision to refuse planning permission was taken by the planning committee in a fully transparent manner after a public debate on the relative merits of the planning application. The planning committee considered the application and all material planning considerations outlined within the reason for refusal were discussed at the committee.
9. The reasons why the committee decided to refuse planning permission are shown in the minutes of the committee meeting. These minutes set out the following: *"Contrary to the recommendation of the Head of Development Management, the Committee resolved to refuse permission. In making the decision the Committee considered that the proposal would significantly harm the character and amenities of the surrounding area".* The resolution was clear: *"That permission be refused and that the Head of Development Management be given delegated powers to finalise the reasons for refusal based on the issues summarised above".*
10. The committee meeting minutes clearly indicate a relevant, clear and convincing reason for the refusal. The council's decision making has taken place entirely correctly both procedurally and substantively and there are no grounds for the award of costs.

Conclusions

11. While it is a fundamental principle of local decision making that a planning committee is not bound to follow the advice of its officers, there is a reasonable expectation that where this occurs it should show clear reasons for taking a contrary decision and produce sound, substantive and defensible evidence for refusal to support the decision in all respects.

12. Of course, the officers had listened to the arguments put by the members of the Committee and any member of the public allowed to speak. It will be seen from the substantive decision that I have made on the appeal against the refusal of planning permission, that I have found the refusal reasons inadequate to support the refusal. That in itself does certainly not mean that there was not a reasoned case to support it. The council's Statement of Case does offer an explanation which, although on balance it has not persuaded me, does contain a view of the merits of the application that are not fanciful, but are worthy of serious weighing in the decision on the appeal.
13. I am therefore satisfied that the refusal reasons in this case, were arguable, and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Terrence Kemmann-Lane

INSPECTOR