



Costs Decision

Site visit made on 27 August 2025

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th August 2025

Costs application in relation to Appeal Ref: APP/W4325/W/25/3365396

71 Albion Street, New Brighton, Wirral CH45 9JQ

- 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 Oliver Walsh of Revilo Albion Limited for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal planning permission for change of use of the property to a 13-bedroom HMO (Sui Generis Use) and provision for off-street car parking, cycle and bin stores. Also includes removal of external staircase and insertion of window to replace the existing door leading onto the external staircase. Conversion of garage as habitable accommodation including a new door, window and roof. Reinstatement of windows to the basement apertures and reduction to height of existing lightwells.
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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 provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters and substantive matters. This application for costs relates to the alleged unreasonable behaviour of the Council in relation to their assessment of the planning application through a subjective analysis and the supposed inaccurate assertions regarding the proposal.
4. Concern has been raised regarding the distinction made by the Council between Bedroom 6 as being identified as increasingly habitable, versus a secondary living room in the previously approved application. It is acknowledged that, in policy terms, both functions are considered habitable rooms, and no formal distinction is made between the two in that context. However, in the case of Houses in Multiple Occupation (HMOs), where occupants are typically unrelated and live independently, it is reasonable to anticipate that individuals may spend a greater proportion of time within their private rooms. Accordingly, while both uses fall under the definition of habitable space, I concur with the view that, in this particular instance, a cautious approach to the effect upon the living conditions of its future occupant is warranted. In particular, as this space would be occupied by a single individual in isolation, where the effects to living conditions would be greater felt.
5. It has been contended that there is an inconsistency in the Council's assessment of Bedrooms 5 and 6. However, the Council has noted that Bedroom 5 was previously used as a bedroom, thereby establishing a fallback position in planning

terms. In contrast, the existing space to Bedroom 6 was a garage. Additionally, Bedroom 5 benefits from a bay window, which is notably larger than the window which would serve Bedroom 6. These factors introduce key distinctions between the two rooms, in terms of the quality of natural light and outlook, which justify a contrasting assessment.

6. A grievance has been raised regarding the Council's assessment of proposed planting within the appeal site and its potential impact on specific rooms. It is noted that the planting in front of Bedrooms 5 and 6 is described differently, with the planting adjacent to Bedroom 5 identified as 'low level'. Although precise planting heights are not specified, it is reasonable to infer that vegetation positioned close to the window of Bedroom 6, without a defined height, could potentially affect the outlook from this room. Whether such an impact would result in unacceptable living conditions for the occupant is ultimately a matter of planning judgment. While the appellant may disagree with the Council's assessment, it remains within the Council's remit, as the decision-making authority, to reach such a conclusion. Accordingly, I do not consider this to constitute unreasonable behaviour.
7. It has been alleged that the Council could have requested further assessments to address concerns relating to various elements underpinning the reason for refusal. However, based on the evidence before me, the Council had previously raised these concerns during the consideration of an earlier approved scheme. In submitting a new application, the appellant would have been aware of these issues and had the opportunity to proactively provide the relevant information at the point of submission, rather than relying on a potential request from the Council. The Council is entitled to determine the application based on the information submitted. In this context, I do not consider the Council's approach to constitute unreasonable behaviour.
8. The HMO Licensing Team at the Council provided a response to the application, indicating that the proposed scheme was acceptable. This response was acknowledged in the Officer Report, albeit briefly. While consultee input can be valuable in informing a Council's decision, particularly on specialist matters, the decision maker retains the discretion to adopt an alternative view. In this context, the Council's decision to diverge from the consultee's position falls within its remit and does not, in my view, amount to unreasonable behaviour.
9. To conclude, I am not persuaded that the local authority acted unreasonably in the matters raised above. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
10. For these reasons and taking into account all other matters raised, the application for costs is refused.

J Smith

INSPECTOR