

Costs Decision

Site visit made on 12 May 2026

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 26th May 2026

Costs application by Harold Jones Ltd

APP/M4320/X/25/3363146

101 South Road, Waterloo, Liverpool L22 0LS

- The application was made under the Town and Country Planning Act 1990, Sections 174, 322 and Schedule 6, and the Local Government Act 1972 Section 250(5).
- The application was made by Harold Jones Ltd for an award of costs against Sefton Metropolitan Borough Council.
- The appeal was made under section 195 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991 against a refusal by Sefton Metropolitan Borough Council grant a certificate of lawful use or development, (LDC).

Decision: The application for an award of costs is refused.

Submissions made by Harold Jones Ltd

1. The application was for a full award of costs. The Council had adopted an absurd position in suggesting that the introduction of one additional room in an established sui generis HMO was “development”. They had sought to convolute/fudge that by drawing in their policies, irrelevant when considering an LDC application.
2. It was obvious that one additional person living in the application property at No. 101 South Road would not constitute a material change of use. It would have no impact on the character of the use. The Applicants did not need to rely on David Manley KC’s advice to point out the obvious, albeit he eloquently cut to the chase and told them what they already knew.
3. The Applicants relied upon common sense and what they considered to be inarguable. The Council’s position had led to the Applicants incurring unnecessary or wasted expense in the appeal associated with instructing planning consultants to prepare and submit the appeal.

Response by Sefton Metropolitan Borough Council

4. The appeal premises had a lengthy history of planning applications and appeals, including multiple attempts to secure an 8 bed HMO which had been refused.
5. The Officer’s report on the application set out the relevant planning issues. It came to a reasoned conclusion based on policy and material considerations. The decision was rational and based on reasonable planning judgment.
6. The Officer report came to a reasoned conclusion as to why examples provided by the Appellants were not applicable here. While it was possible that different readers of the report might not read the document in the same manner, that did not in itself amount to unreasonable behaviour.

7. The Appellants failed to identify how their reading of the Officer report and the reasonings found within led to the incurring of wasted expense. The application was determined within statutory timeframes and the decision was capable of being understood and challenged through the normal appeal process, as had occurred. No evidence was presented to show the appeal could have been avoided.

Inspector's conclusions

8. Irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result. However, where a party has – (1) behaved unreasonably and – (2) this has directly caused another party to incur unnecessary or wasted expense, they may be subject to an award of costs. The power to award costs is limited to those necessarily and reasonably incurred in the appeal process. Expense incurred at application stage, or any indirect expenses, cannot be recovered by an award of costs in any event.
9. In my view, as set out in my decision on the appeal, the Council's justification for their refusal to issue a certificate of lawfulness appeared to be based upon considerations more applicable to a planning application where conditions could be applied. Issues of planning merit are not relevant to an LDC application - there is no deemed planning application.
10. However, the Council officer report and the subsequent representations supporting their refusal said that losing a communal room to an extra bedroom increased occupancy numbers and reduced shared space. That, they said, intensified the HMO's use beyond its original capacity or permission. It degraded occupants' living conditions, a key planning consideration, (NPPF para 135 (f)). It amounted to a significant shift in character of the property.
11. I was not persuaded to that view, the difference in the character of the use from 7 to 8 occupants being not significant enough to amount to a material change in the character of the use of No. 101. However, Council concerns about loss of shared areas and intensification were not irrelevant to questions of a change in the character of the use. I do not consider the Council's reasoning to have been woefully inadequate or inappropriate such as to merit an award of costs to the Appellants.
12. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, was not demonstrated. An award of costs against the Council is not justified.

COSTS ORDER

13. No order as to costs is made.

John Whalley

INSPECTOR