



Costs Decision

Site visit made on 17 October 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Costs application in relation to Appeal Ref: APP/P3420/W/23/3320033 13 Underwood Road, Newcastle Under Lyme ST5 6QG

- 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 Jason Brown for a full award of costs against Newcastle-under-Lyme Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of a 6 bedroom HMO to an 8 bedroom HMO (Sui Generis).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 applicant asserts that the Council made vague, generalised or inaccurate assertions about the proposal's impact which was unsupported by any objective analysis; that it refused permission for a proposal that is capable of being dealt with by suitable conditions and that it did not determine similar cases in a consistent manner.
4. With regards to the references to other cases, I agree with the Council that they cannot be considered similar to the appeal proposal. This is based on various factors, including the scale of each individual development and the specific locational context of each example.
5. I have however found that a condition restricting the total occupancy to eight people would meet the tests set out in national policy, including that it would be enforceable.
6. Further, based on the evidence before me, I am not convinced that the Council fully corroborated its concerns over the effect of the appeal proposal on the living conditions of neighbouring occupiers.
7. The Council's evidence makes reference to the increased movements to and from the appeal site which the appeal proposal would create and that they would be clearly discernible due to the lack of other high number occupancy properties close by. However, this is where the analysis ends. Within its evidence, the Council did not give any clear consideration as to exactly the extent of any additional movements which may occur, or explicitly explain the harm which would subsequently result.

8. It seems to me that, whilst reference was made to the additional occupants of the proposal above the use of the property as a 6 bedroom house of multiple occupation (HMO), the Council made an assertion that the additional activity which may occur would result in harm. This was uncorroborated by objective analysis of the actual effects.
9. The Council's concerns with regards to the effect of the proposal on the character of the area are similarly unsubstantiated, with limited consideration as to the appearance and use of the existing property, the context of the wider area and the extent of harm which may be created by additional occupiers.
10. All in all, the Council behaved unreasonably as it clearly made vague and generalised assertions that the total number of residents of the HMO would cause unacceptable noise and disturbance, with no clear evidence or objective analysis to demonstrate this. Its assessment does not stand up to scrutiny on its planning merits.
11. I therefore find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. Consequently, the application for a full award of costs is allowed.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Newcastle-under-Lyme Borough Council shall pay to Mr Jason Brown, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Newcastle-under-Lyme Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Ellison
INSPECTOR