
Costs Decision

Site visit made on 10 May 2016

by Daniel Hartley MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2016

**Costs application in relation to Appeal Ref: APP/Z4310/W/16/3144329
14 Moss Lane, Liverpool L9 8AJ**

- 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 Liam Gallagher for a full award of costs against Liverpool City Council.
 - The appeal was against the refusal of planning permission to use the property as a 9 bedroom house in multiple occupation and to erect a dormer to the rear and a conservatory to the rear.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant considers that the property has previously included a flat and six bed-sits (without complaints) and consequently that the proposed house in multiple occupation would not be materially different in terms of an intensification of use. I have no evidence that the building has been used in this way, and, if so, for how long. Furthermore, I have not been provided with any evidence (including a lawful development certificate) to demonstrate that the property could lawfully be used in this way.
4. Whilst I have concluded that the proposal would not amount to a material change in the intensity of use when compared to the use of the property as a dwelling house, this is largely a matter of subjective planning judgment. I consider that the Council were entitled to conclude that the proposal would result in an unacceptable intensification of the use of the property. I reach this view even though I have concluded that there would not be an unacceptable intensification of use. In this regard, I conclude that this part of the Council's reason for refusal was reasonable, and hence that the appellant was not put to unnecessary expense in the appeal process.
5. However, I do not consider that the Council has been able to adequately substantiate its concerns about the effect of the proposal upon social cohesion and the balance of accommodation in the area. The Council have not been

able to support their concerns by means of any relevant local planning policies (for example in respect of the cumulative impact of HMOs) or any other reasonable evidence. In this regard, I conclude that this part of the Council's reason for refusal was unreasonable, and hence that the appellant was put to unnecessary expense in the appeal process.

Conclusion

6. For the above reasons, I find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

7. 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 Liverpool City Council shall pay to Mr Liam Gallagher, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against the Council's view that the proposal would cause harm to social cohesion and the balance of accommodation in the area; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Liverpool City 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.

Daniel Hartley

INSPECTOR