



Costs Decision

Hearing held on 11 February 2025

Site visit made on 11 February 2025

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Costs application in relation to Appeal Ref: APP/T4210/W/24/3354556

1-5 Porter Street, Bury BL9 5DZ

- 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 O Small (Sonlight Living Ltd) for a full award of costs against Bury Council.
 - The appeal was against the refusal of planning permission for the partial conversion of existing building to form 1x7 bedroom HMO and 1x8 bedroom HMO with associated car parking, system storage, refuse storage and external alterations to provide new windows and doors and lightwell.
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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 applicant has set out that the Council has behaved unreasonably by not producing evidence to substantiate its decision. In relation to the second reason for refusal, whilst this was a new reason for refusal that did not feature on a previous decision on this site¹, the Council set out its reasoning in the Officer's Delegated Report and at the hearing. The highways consultation response is limited to the recommended reasons for refusal, but the Council did justify its concerns in relation to parking and pedestrian visibility in other written and in oral submissions.
4. The applicant also considers that the harm to the character of the area is unfounded, but this is a matter that requires the exercise of judgement, and the Council was entitled to exercise its planning judgement as it saw fit. Their submissions make reference to how the character of the area would be harmed as well as to the relevant development plan provisions and there is no clear evidence that the Council has not substantiated its position through a lack of objective analysis. Although I do not share the Council's assessment of the appeal proposal in relation to this or other main issues, I do not consider they acted unreasonably by making vague, generalised or inaccurate assertions

¹ LPA Ref: 70536

5. The concerns expressed by the applicant also make reference to permitted development rights providing fallback positions. The Council however clearly considered the fallback positions as material considerations when assessing the proposal and set out the reasons in the Officer's Delegated Report why it would not justify the proposal.

Conclusion

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

F Rafiq

INSPECTOR