
Costs Decision

Site visit made on 24 November 2025

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/T4210/W/25/3372781 17 Belle Vue Terrace, Bury BL9 0SY

- 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 Zvi Portnoy for a full award of costs against Bury Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use of a 6 bed HMO to an 8 bed (single occupancy) HMO.
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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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. The PPG gives examples of the types of behaviour that may give rise to a procedural award against a local planning authority. These include a lack of co-operation with the other party. Examples which may give rise to a substantive award include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. With reference to these examples, a full award of costs is sought by the applicant on both procedural and substantive grounds.
5. First, it falls outside the scope of this costs decision to determine whether the Lawful Development Certificate (LDC) submitted by the applicant was ambiguous, or whether it provided certainty that the appeal property operates as a lawful small House in Multiple Occupation (HMO). I have considered the evidence as to the existing use in my main decision only in so far as it is material to the main issue in dispute between the parties.
6. The evidence before me clearly shows that there was extensive and ongoing dialogue between the applicant and the Council throughout the planning application process, but no evidence that the Council failed to co-operate with the applicant or unreasonably resisted the application.

7. Further, although it is asserted that the Council sought reasons to delay determination of the application, based on the applicant's own 'Application Context and Chronology' a decision was made in a timely manner. Nevertheless, there was clearly disagreement between the parties about how the unoccupied ground floor bedrooms should be identified on the plans, but I do not find it unreasonable for the Council to seek clarification on this matter. To my mind, the amended plans more accurately reflect the existing ground floor arrangement of the property.
8. Although I appreciate the applicant's frustration in respect of the amendment sought to the description of development (to refer to the change of use from a dwellinghouse), the description on the decision notice is not substantively different to the one provided on the planning application form. Moreover, it is evident from the Officer Report that the application was not assessed on the basis of the loss of a dwellinghouse.
9. Finally, for the reasons given in my main decision, I do not find the Council to have erred in their assessment of the application. The matter for consideration should be whether the property can accommodate a quantum of 8 persons, which based on the plans and single occupancy of the rooms (as proposed) would necessarily include the use of at least one of the basement bedrooms. As they are entitled to do so, the Council has exercised a planning judgement as to whether the bedrooms in the basement provide acceptable living conditions for existing and future occupiers. Therefore, the Council's assessment of this matter and its finding of harm was not unreasonable, and it has adequately substantiated the reason for refusal. It did not prevent or delay development which should clearly have been permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Gravett

INSPECTOR