



Costs Decision

Site visit made on 30 January 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Costs application in relation to Appeal Ref: APP/W1715/W/23/3327259 29 Twyford Road, Eastleigh, Hampshire SO50 4HD

- 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 Lewis Bowers for a full award of costs against Eastleigh Borough Council.
 - The appeal was against the refusal of planning permission for the change of use from C4 HMO to Sui Generis HMO for more than 6 No unrelated persons.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their 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. In refusing the planning application, the applicant considers that the Council has acted unreasonably due to the poor interpretation of the policies contained within the Local Plan¹, the Quality Places SPD² and the Framework³. In so doing, it is claimed that the Council has made vague, generalised or inaccurate assertions about the proposed development's impact, which are unsupported by any objective analysis.
4. The Council's decision notice contains two reasons for refusal comprising the effect of the proposed change of use on the living conditions in respect of communal amenity space and noise. These reasons are complete, precise, specific and relevant to the development, clearly referring to the local and national planning policies with which the proposed development would conflict. The Council does not need to refer to specific paragraphs of the Framework in the reasons for refusal, even if this would be helpful to the applicant.
5. Whilst there are no policies which specifically cover Homes in Multiple Occupation (HMO) development in the Local Plan an assessment of the scheme against policies relating to residential amenity, including policies DM1 and DM8, has been undertaken. As these policies cover general criteria and issues relevant to all new development proposals, I see no reason to conclude the Council should not have applied them in this case. Furthermore, the Delegated Officer Report details the specific reasons why the various features and

¹ Eastleigh Borough Local Plan 2016-2036 (the Local Plan)

² Quality Places Supplementary Planning Document (the Quality Places SPD)

³ National Planning Policy Framework (the Framework)

characteristics of the proposed change of use would be contrary to the policies of the Local Plan.

6. The purpose of the Quality Places SPD is to provide detailed guidance regarding the design of new development, in support of the Local Plan. Again, no specific reference is made to HMO developments. However, the key design principles contained in the SPD apply to residential and non-residential developments of all scales and formats. Therefore, the use of the SPD as part of an objective analysis in this case is appropriate.
7. I acknowledge that limited quantitative requirements for the provision of communal amenity space are provided within the SPD and, where areas are listed, they are not directly applicable to HMOs. The SPD is clear in qualitative terms, however, that the amenity space provided should be suitable for normal domestic activities, including sitting out and drying clothes. Similarly, no standard areas per person or dwelling for these activities are provided.
8. The application plans show limited detail of how the communal amenity space could be used. As a result, given the size and layout of the communal amenity space, a decision-maker would be required to make a judgement as to whether the space would be suitable to support the aforementioned activities. I see no reason to conclude that the Council's judgement on this issue was not based on an objective analysis of the characteristics and features of the communal amenity space. Moreover, I have come to the same conclusion on this main issue and the proposed development's conflict with the SPD in this regard.
9. Accordingly, I conclude that the Council has not made vague, generalised or inaccurate assertions about the impact of the proposed change of use. The Council has also demonstrated that its decision was supported by an objective analysis through the interpretation of the policies and guidance contained within the Local Plan, the Quality Places SPD and the Framework. Consequently, the Council's decision has not prevented or delayed development which should clearly be permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Juliet Rogers

INSPECTOR