



## Costs Decision

Site visit made on 24 April 2024

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 June 2024**

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### **Costs application in relation to Appeal Ref: APP/A2525/W/23/3327301 5 Stonegate, Spalding, Lincolnshire PE11 2PQ**

- 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 Dale Bowden for a full award of costs against South Holland District Council.
  - The appeal was against a refusal to grant planning permission for 'change of use of a residential property (C3) to a HMO (C4 or 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. 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 PPG provides that Local Planning Authorities (LPAs) are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where development is prevented or delayed where it should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal and where vague, generalised or inaccurate assertions are made about a proposal's impact which are unsupported by any objective analysis.
4. The Council was not obliged to accept the recommendation of its officers. However, its case does not sufficiently elaborate on the reasons it decided to refuse planning permission.
5. Firstly, other than a vague reference to additional comings and goings, it has not been adequately explained why the proposal would result in harmful levels of noise and disturbance in this instance. In the absence of a more comprehensive assessment, factoring in site-specific relationships with neighbouring properties and a comparison between the existing and proposed levels of occupation, the Council's findings in this regard seem generalised and have not been substantiated.
6. Secondly, the Council's case does not include any detailed analysis in respect of living conditions for occupiers of the proposal. Therefore, it is unclear as to which aspects of the accommodation would be unacceptable for the level of

occupation proposed, whether this be in qualitative or quantitative terms. The reason for the Council's decision in these respects is further undermined by its acknowledgement that the bedrooms within the proposal would comply with the relevant space standards.

7. Finally, the Council's assertions that the proposal would give rise to a large number of additional vehicles and would impede traffic flow is not supported by any objective evidence. The Council's findings in these regards seem exaggerated given that the capacity of the HMO would increase by a maximum of 3 residents over the current situation. In addition, the Council has not provided any detailed evidence to demonstrate that the appellant's parking survey cannot be relied upon. In the absence of any logical reasoning, the decision of the Council to refuse planning permission on such grounds has again not been substantiated.

### **Conclusion**

8. For the reasons set out, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. For that reason, a full award of costs is justified.

### **Costs Order**

9. 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 South Holland District Council shall pay to Mr Dale Bowden, 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.
10. The applicant is now invited to submit to South Holland District 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.

*M Russell*

INSPECTOR