



Costs Decision

Site visit made on 1 July 2018

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Costs application in relation to Appeal Ref: APP/J0350/W/19/3225180 6 and 8 Cippenham Lane, Slough SL1 5BS

- 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 Vik Singh for a full award of costs against Slough Borough Council.
 - The appeal was against grant subject to conditions of planning permission for part single and part double side and rear extension to plots 6 and 8 Cippenham Lane.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 basis of the appellant's application for costs falls in to three distinct areas where they feel there has been unreasonable behaviour on the part of the Council in applying Condition 6 to the Planning Permission:
 - 1) The issuing of a Planning Permission with a condition that removes Permitted Development Rights (PDR) for a change from a single dwelling house to a C4 House in Multiple Occupation (HMO), in an area where the Council has not previously issued an Article 4(2) direction removing this right.
 - 2) Exceptional circumstances not being provided in the reasons for Condition 6 that demonstrates why this condition was reasonable or necessary.
 - 3) That the houses could change use to a C4 HMO use without the implementation of the Planning Permission, thereby avoiding the harm identified by the council.

Article 4(2) direction not for the area

4. Notwithstanding that the Council has not issued an Article 4(2) Direction for the Borough or part of the borough that removes the PRD to change a single dwelling house into a C4 HMO use, the removal of PDR otherwise established in the General Permitted Development Order (GPDO) is allowable by condition on a planning approval subject to the requirements of Paragraph 43 of the National planning Policy Framework (The Framework). As I have found in the

appeal decision that these requirements have been met for the imposition of this condition, there is no unreasonable behaviour on the part of the Council.

Exceptional circumstances not being provided in the reasons for Condition 6

5. It is my view, as expressed in the appeal decision, that the reasons given by the Council for Condition 6, are specific in referencing the approved reduction in the size of the rear garden and, therefore, amenity space and its suitability if the house was in another use. These reasons given clearly relate to planning purposes as set out in Paragraph 55 of the Framework. The Planning Practice Guidelines sets out that these rights should only be removed in exceptional circumstances where there is clear justification to do so.
6. Although not stated as being exceptional, the circumstances detailed relate to the scale of amenity spaces proportionate to the size of the house in considering whether the houses would be suitable for C4 use as a HMO and, therefore, represents an exceptional circumstance with regard to the restriction of permitted change of use under the provisions of the GPDO.
7. There is therefore no unreasonable behaviour on the part of the council in this regard in their application of this Condition to the Planning Permission.

Change use to a C4 HMO without the implementation of the Planning Permission

8. Notwithstanding that the planning permission¹ for part of the rear gardens of Nos 6 and 8 to be used as parking space by the adjacent car showroom was attached with a condition requiring a submission for planning permission for a future change of use to a HMO use, the change of use would abandon the existing use as a single dwelling house. This change would also have the effect of abandoning the permission to extend 6 and 8 as dwelling houses and a new permission, as intended by Condition 6, would need to be sought to extend these properties in C4 use as HMOs.
9. As the change of use without implementing the planning permission would not avoid the harm identified by the council, and no restriction has been put in place that restricts the ability of the appellant to apply for such a change of use, there is no unreasonable behaviour on the part of the council in applying Condition 6 in these circumstances.

Conclusion

10. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Victor Callister

INSPECTOR

¹ Planning Ref: P/09849/001