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## Costs Decision

Site visit made on 10 December 2019

**by A Denby BA(Hons) DipTP MRTPI**

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

**Decision date: 23 January 2020**

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### **Costs application in relation to Appeal Ref: APP/D1835/W/19/3237422 27 Comer Road, Worcester, WR2 5HU**

- 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 Mark James for a full award of costs against Worcester City Council.
  - The appeal was against the refusal of planning permission for change of use from C3 to C4 (small HMO with six bedrooms) retaining flexible use between the classes and change of internal layout.
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### **Decision**

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

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant states that the appeal was unnecessary as the Council failed to properly consider or attach sufficient weight to the Houses in Multiple Occupation Supplementary Planning Document, 2014 (HMO SPD) and in its determination of the application considered matters that were of less or no relevance. They also consider the Council were unduly influenced by pre-application advice they had provided to the appellant.
5. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly state the policies of the South Worcestershire Development Plan 2016 (SWDP) and aspects of the HMO SPD that the proposal would be in conflict with. The Council has identified conflict with the SWDP and its reasons have been adequately substantiated in its Officer Report.
6. For the reasons set out in the appeal decision I also have concerns regarding the creation of an additional House in Multiple Occupation (HMO) and the impacts of that on the surrounding area. Furthermore, I have identified

concerns with regards to the living conditions of future occupants. On that basis I have found that the proposal would conflict with SWDP Policies 14 and 21. I have come to that decision on the basis of my consideration of the details and merits of the scheme, having regard to all the evidence submitted.

7. The Council referred to SWDP Policy SWDP 21, which requires all developments to achieve high quality design; and the South Worcestershire Design Guide Supplementary Planning Document, Overarching Design Principles, 2018 (Design SPD). The primary aim of the Design SPD is to improve the overall quality of built design and encourage a higher standard of design in all aspects of the built environment. It is aimed at all new build schemes but as the name of the document suggests, it provides overarching design principles which are relevant to all new development.
8. The HMO SPD does not take precedence over the Design SPD or the need to achieve high quality design, which is also inherent within Section 12 of the National Planning Policy Framework. I therefore consider these were relevant considerations for the Council in their consideration and determination of the application and it has therefore not behaved unreasonably in this respect.
9. Informal advice provided before an application is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all material factors. From the evidence before me I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal.
10. I note the appellants concerns about inconsistencies in the decisions made by the Council with reference to other sites where they state bedrooms with a more restricted outlook than that proposed as part of the appeal scheme, have been permitted. As I have detailed in the appeal decision, I do not know the full circumstances of those schemes, though in any event the appeal scheme must be considered on its own merits.
11. Furthermore, for the reasons set out in the appeal decision, it is not considered that the exceptional circumstances, referred to by the HMO SPD exist in this particular instance, to justify allowing a further HMO in this location.
12. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found the Council had reasonable concerns about the impact of the proposed development which justified its decision.

### **Conclusion**

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*A Denby*

INSPECTOR