



## Costs Decision

Site Visit made on 1 March 2021

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

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

**Decision date: 18 March 2021**

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**Appeal Ref: APP/U1620/W/20/3263401**

**82 Henry Road, Gloucester GL1 3DX**

- 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 Red Interests for a full award of costs against Gloucester City Council.
  - The appeal was against the refusal of planning permission for a change of use to 8 bed House in Multiple Occupation (HMO (sui generis)) including demolition of the existing garage and timber carport, erection of proposed single storey rear extension and associated car parking, cycle parking and amenity space.
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### Decision

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

### 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 planning application was recommended for a grant of planning permission in the Council's Officer's Report. The Officer's Report found that the proposal would comply with both the statutory development plan and the Framework<sup>1</sup> in a number of respects. However, the Planning Committee debated the application and decided to refuse planning permission. The Committee meeting minutes state that the Senior Planning Officer presented the Officer's Report to that meeting.
4. Paragraph 48 of the Framework provides direction as to how much weight should be given to relevant policies in emerging plans. It does not specify the exact weight to be given, but instead relies on an analysis of the particular circumstances involved. The Council, in its Officer's Report, provided cogent reasons for how it had arrived at the finding that emerging Policy A1 of the emerging City Plan<sup>2</sup> should be given moderate weight, and the Committee meeting minutes state that the Council's Solicitor also answered questions on this aspect.
5. It is clear from the minutes of that Committee meeting that the proposal was not considered to be a clear-cut case, in planning terms. Rather, valid arguments on both sides of the debate were put forward. Also of relevance are the large numbers of representations submitted in opposition to the proposal

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<sup>1</sup> National Planning Policy Framework 2019

<sup>2</sup> Gloucester City Plan 2011 – 2031 (Pre-Submission version) (September 2019)

by local residents. Indeed, the Committee meeting minutes state that a statement on behalf of a local resident was read, in opposition to the application.

6. In light of the foregoing, it is clear that the policies in the statutory development plan, and the Framework, were considered by the planning Committee, and that the Council considered the weight to be given to emerging Policy A1 and how its supporting text should be applied, in the context of the statutory development plan. Considering the variance of opinion on the planning matters involved, in my view the outcome of the planning application and the reasons given for that outcome, were within the range of reasonable possibilities open to the Council. Therefore, I do not agree that the Council prevented development that should have clearly been permitted having regard to the development plan. As such, the Council's behaviour was reasonable on this ground.
7. Both the Officer's Report and the Committee meeting minutes show that evidence was gathered, and scrutinised, with respect to emerging Policy A1's requirement in relation to proposals not leading to a saturation of intensified properties within the area, including the 10% threshold given in the supporting text to that emerging policy. This evidence was primarily provided by the appellant, but that does not change its status. Also, both the Officer's Report and the Committee meeting minutes demonstrate that attention was paid to related concerns, such as parking provision, including by way of a site visit. Therefore, I do not agree that the Council failed to produce evidence to substantiate each reason for refusal or made vague, generalised or inaccurate assertions about the proposal's impact which were unsupported by any objective analysis. The Council's behaviour was reasonable in relation to these matters, also.

### **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Alexander O'Doherty*

INSPECTOR