



Costs Decision

Site visit made on 7 September 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Costs application in relation to Appeal Ref: APP/P0119/W/22/3297910 15 Braemar Crescent, Filton BS7 0TD

- 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 Padbury (Kasa Real Estate Ltd) for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for change of use from residential dwelling (C3) to an eight-bedroom large house in multiple occupation (Sui Generis) for up to eight people including erection of side/rear extension and loft conversion/dormer, vehicle parking, bin storage and cycle parking.
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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 so caused the costs applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of (i) ignoring facts and misinterpreting planning policy, and (ii) failing to substantiate its assertions.
3. The decision to refuse planning permission was made by the Council's Spatial Planning Committee against the advice of its officers. The Council is not duty bound to follow its officers' advice in the determination of a planning application. However, it has to clearly demonstrate on planning grounds why a proposal is unacceptable and properly substantiate its reasons.
4. The Council's appeal statement largely replicates the recorded minutes of the Spatial Planning Committee's discussion on the appeal proposal. These include comments made both in support and against granting planning permission. However the minutes fail to give a structured explanation as to why the Council consider the appeal should be dismissed.
5. The Council's reasons for refusing planning permission as stated on its decision notice are that the proposal would add to a proliferation of houses in multiple occupation (HMOs) and so it would be harmful to the character and appearance of the area. However, no evidence has been submitted by the Council to show where HMOs are in the locality or to demonstrate that there is already a proliferation. Inconsistent information on the proportion of HMOs in the locality is included in the referred to minutes and there is no explanation provided as to which figure the Council considers is accurate.

6. Claims that 11.2% of households in this part of Filton are HMOs have not been evidenced. Also, no response has been made by the Council to the appellant's assertion that this figure has been derived from a misinterpretation of the Council's Houses in Multiple Occupation Supplementary Planning Document 2021. Information on licensed or large HMOs within the associated Census Output Area should be readily available to the Council. However, it has not confirmed whether the 11.2% or the 1.3% figure as advanced by the Council's officer is correct.
7. In any event, the Council's submissions fail to explain in any detail why it considers the proposal would cause actual harm to the character and appearance of the area, regardless as to the level of HMOs in the locality. This lack of evidence is a particular failure given that policy PSP39 of the South Gloucestershire Local Plan, Policies, Sites and Places Plan 2017 is generally supportive of HMOs unless they would impact on the character of the area.
8. For these reasons, I conclude the Council's appeal submissions fail to meaningfully explain or justify its objections to the scheme. Therefore, the Council has failed to properly substantiate its refusal reasons. This unreasonable behaviour has resulted in the need for the applicant to submit a planning appeal and so incur unnecessary expense. In such circumstances and having regard to the PPG, I find that an 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 Gloucestershire Council shall pay to Mr Padbury (Kasa Real Estate Ltd), 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 the 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.

Jonathan Edwards

INSPECTOR