



Costs Decision

Site visit made on 18 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Costs application in relation to Appeal Ref: APP/C3105/W/23/3324180 67 Oxford Road, Banbury, Oxfordshire OX16 9AJ

- 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 Miss Chloe Waller for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of the Council grant planning permission for the conversion from 10-bed HMO to 12-bed HMO (Sui Generis).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 applicant considers that the Council has no evidence to substantiate its reason for refusal due to making inaccurate and incorrect assertions and that, having regard to its accordance with the development plan, national policy and any other material considerations, the Council has prevented or delayed development which should clearly be permitted.
4. Although the applicant states that the harm is existing, it is clear from the plans that there is a change in purpose relating to the proposed additional bedrooms. As habitable rooms, bedrooms require different standards of outlook and natural light than ensuite and utility rooms.
5. Consideration of the disputed matter involved the exercise of planning judgement concerning whether the living conditions of future occupants would be provided in respect of outlook and natural light. The Council substantiated its reasoning within both the Delegated Officer Report and its Appeal Statement, setting out their reasons as to why they considered the proposed development to be unacceptable.
6. I acknowledge that the scheme may comply with the Building Regulations and the requirements within the HMO Standard 2018. However, these are a function of other regulatory bodies or controls and are not required to be considered within a planning application by the Council.
7. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The

Council identified conflicts with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Saved Policy C30 of the Cherwell Local Plan 1996 in respect of the living conditions of future occupants of the development. These policies include a requirement for proposals to provide acceptable standards of amenity, considering the amenity of both existing and future development, including matters of outlook and natural lighting. Given the Council's position that there was harm in these regards which I have found to be reasonable, the Council has not behaved unreasonably in identifying this policy conflict.

8. Notwithstanding my decision to allow the appeal, for the reasons set out above, the Council's stance was not unreasonable. This was not development which should clearly be permitted and the reason for refusal was adequately explained. As a result, I find that the Council had communicated their reasonable concerns about the impact of the proposed development which justified their decision.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

J Pearce

INSPECTOR