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## Costs Decision

Site visit made on 15 April 2024

**by B Phillips BSc MSc MRTPI**

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

**Decision date: 03 May 2024**

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### **Costs application in relation to Appeal Ref: APP/G3110/W/23/3327176 121 Herschel Crescent, OXFORD OX4 3TX**

- 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 Mrs Chloe Waller for a full award of costs against Oxford City Council.
  - The appeal was against the refusal of planning permission for a change of use of dwellinghouse (Use Class C3) to a Large House in Multiple Occupation (Sui Generis). Alterations to 1no. door and 1no. window to front elevation. Alterations to bi-fold doors to rear elevation. Removal of 1no. door to be replaced with 1no. window to rear elevation. Provision of bin and bike stores
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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 PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.
4. Unreasonable behaviour may include failure by the planning authority to substantiate a stated reason for refusal of planning permission or relate to a procedural process. The PPG also sets out that the planning history of a site may be a relevant consideration in the determination of an application.
5. Key to the applicant's case in this instance is the approval<sup>1</sup> of a C4 HMO use at the appeal property, which included similar bin and bike storage areas. This is referenced and addressed in the Officer Report and expanded upon in the Council's Statement of Case. The difference between the proposal and the previously approved scheme is set out clearly, namely the addition of a second bike storage area and differing orientation. Whilst I have not come to the same conclusion in terms of impact upon character and appearance, the Council have substantiated why they believe the additional structure/scale results 'tips the balance' in relation to harm in this respect.

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<sup>1</sup> Application reference 23/00351/FUL

6. Accordingly, it has not been demonstrated that the applicant's time and expense in defending this matter was not necessary and has resulted in unnecessary or wasted expense on their behalf.
7. In relation to the second reason for refusal, again, the Council set out why the additional structure and different orientation would lead to additional access and manoeuvrability issues. The fall-back position of the previously consented scheme is similar in this respect, particularly in terms of access to the property and the size of one of the car parking spaces. Nevertheless, the argument put forward by the Council raises and points to sufficient differences, for example the manoeuvrability to the additional bicycle storage area which opens towards the property and access to the bin storage area, to substantiate what the Council consider to be additional harm over the previous scheme.
8. As such, again, whilst I have found differently in this respect, it has not been demonstrated that the applicant's time and expense in defending this matter was not necessary and has resulted in unnecessary or wasted expense on their behalf.

### **Conclusions**

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

*B Phillips*

INSPECTOR