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## Costs Decision

Site visit undertaken on 26 September 2025

**by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2025

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### **Costs application Appeal Ref: APP/P4605/W/25/3368456**

#### **94 Church Road, Perry Barr Birmingham B42 2LF**

- 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 Zafran Khan against the decision of Birmingham City Council.
  - The appeal was against the refusal of planning permission for the 'Conversion/change of use of existing bungalow to a 7 bed HMO, associated parking, amenity space and alteration to site access.'
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### **Decision Costs Application:**

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

### **Reasons**

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant has put forward one main ground with detailed elements for unreasonable behaviour which relate to the procedural elements (relating to the process). Components of the ground also relates to a previous application which according to the appeal documents was refused for a larger House of Multiple Occupation (HMO). This application is not part of the considerations under this current appeal or the planning application subject to this appeal. In accordance with the NPPG<sup>1</sup> a previous planning application does not relate to this current appeal and the refused application in question. As such in accordance with the NPPG this ground is not eligible for an award of costs. Despite this, I turn to the grounds below only as they relate to the current appeal and planning application.
4. The Appellant feels aggrieved due to the lack of correspondence by the Council where the Council sought to refuse the application prior to discussing this with the Appellant. Whilst it is good practice for a Council to seek amendments or initiate further discussions and seek further evidence, they are under no legal obligation to seek resolution. The only legal obligation the Council are under is to make a decision on a planning application based upon the information they have in front of them which they felt that there were sufficient grounds to refuse the application. As highlighted in the Council's statement, where an application requires minor

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<sup>1</sup> Paragraph 032 Reference ID: 16-032-20140306 Revision Date 06 03 2014

amendments there may be discretion to accept these, but in this instance the changes required were not minor.

5. As per the submitted appeal documents, it would appear that there was dialogue between the Council and the Appellant, such as seeking further information such as evidence of marketing etc to satisfy the Development Plan Policies. As also discussed in the accompanying appeal, the evidence submitted by the Appellant was not sufficient to satisfy the policy, which was also expressed by the Council. Reliance on a marketing exercise during the pandemic, being over 4 years ago and relating to a previous sale was not an appropriate amount of justification, particularly now when the property is 4 bedrooms and capable of being utilised as a family dwelling. In applications where there is a decision of the principal of appropriateness, it is common practice to prepare sufficient evidence to demonstrate that the principle is appropriate. This was not the case in this planning application or appeal.
6. Additionally, I can appreciate the concern from the Appellant that they feel that the previous refusal was not considered in the same way as this application as marketing material was not requested. I am unclear of why this was the case, however it is clear to me that the policies of the Development Plan specifically seek marketing material as part of compliance with the policy. Even if the Council did not seek evidence in a previous application, this could also mean that the Council did not fulfil their duty under the act to consider the Development Plan in its entirety. Every case is considered on its merits and the lack of perceived consideration of a policy does not make the policy invisible in subsequent applications.
7. There is further discussion on a related procedural matter that involves the validation of the application whereby the application was submitted on 12 December 2024 and not validated until 11 March 2025. I can appreciate the Council's position with regards to staff resourcing and that the validation of this particular application fell below their normal performance. In this regard the length of time to validate the application does carry elements of unreasonable behaviour in line with the PPG. Whilst the Council has been unreasonable in this regard, in order for costs to be awarded, it must also be demonstrated how this has resulted in wasted expense. The appeal documents speak of wasted expense being around council tax payments, loan repayments etc however this does not appear to be related to the application itself, but more of a desire of the Appellant to change the use of the building and not getting the property up to standard that it can be occupied which would have been required whether the building was a dwelling or a HMO. It appears that discussions have been occurring for some time and that nothing was changed from the previous refused application to the current application in terms of looking at options for the property, which any business would take into account when deciding on the practicalities of applying for planning permission and associated loans, particularly when a property is uninhabitable. Whilst I agree that the time given to make a decision was poor, based on the evidence before me, I do not consider that wasted expense has been clearly demonstrated. As such whilst unreasonable behaviour has been demonstrated, it would not result in wasted expense in line with the PPG.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been

demonstrated in this costs application. For this reason, and having regard to all other matters raised, an award for costs in this appeal is therefore not justified.

*J Somers*

INSPECTOR