

Decision under Delegated Powers

Officer Requesting Decision (if necessary)

Group Leader Development Management

Officer Making the Decision

Head of Planning & Regeneration Services

Recommendation

To refund the application fee of £18,095 on application P/17/0188/2

Reason

The Government's Planning Guarantee states fees **must** be refunded where Extensions of Time for the determination of the application have not been agreed and the application is over 26 weeks. Extensions of time are only in the gift of agreement from the applicant.

Authority for Decision

Delegation to the Head of Planning and Regeneration. To negotiate and settle disputes without recourse to court proceedings including negotiating and agreeing terms through alternative dispute resolution. Part 8.2 point 4 of the constitution applies.

Decision and Date



31 January 2018

Background

A planning application for the above site to be developed for a large unmanaged house of Multiple Occupation HMO was refused on 20th December 2016. The applicant met with the Development Management service to discuss the reasons for refusal. During this discussion, the applicant discussed how the scheme could be considered for approval. This included a suggestion from the applicant that they could consider proposing residential units as C3 residential use in the converted building rather than the building becoming a large unmanaged house of multiple occupation. Officers

rightly advised that if the units proposed were to be C3 residential use, then S106 contributions were to be considered including affordable housing provision. The approach would avoid the proposal being considered under the HMO policy

The above requirements by officers did not fit in with the applicant's view of viability or the development proposals they intended which still focussed on one bedroom accommodation akin to HMO provision.

Whilst the developer continued to debate the viability issues of the C3 proposal and therefore should not incur s106 contributions, the developer chose to submit an appeal to the Planning Inspectorate on the refused planning application and submitted an application for C3 residential at the same time. The developer also chose to submit a third application for a managed halls of residence.

The applicant through the submission of late information to the Planning Inspectorate also sought to demonstrate how the refused application for a large unmanaged HMO could have on site management.

The Planning Inspectorate were persuaded by the submission of the late information to allow the appeal.

However, the ongoing discussions regarding the parallel proposal (for the C3 units) had passed the 26 week period. The Government's Planning Guarantee states fees must be refunded where Extensions of Time have not been agreed and the application is over 26 weeks.

The applicant has agreed to withdraw the second application so that no further work is undertaken on it on the basis the fee is refunded. It is considered this is the most efficient way to deal with this application.

Financial Implications

A fee of £18,095 will be refunded to the applicant reducing the Council's income accordingly. It is considered there is no basis in light of the 'planning guarantee' issued by the government to resist the request. It should be noted that this request relates to income derived in the 2016/17 financial year.

Risk Management

Risk Identified	likelihood	Impact	Mitigation action
Refusal to return the fee could lead to further legal costs accruing as well as being required to pay the fee..	High	Significant - £18,095 plus legal costs	Pay the fee

Continued need to process parallel applications submitted	High	Significant Additional unnecessary work undertaken -	The applicant has agreed to withdraw the in parallel applications if the fee on the first application is refunded.
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Key Decision:

No

Background Papers:

None