



Costs Decision

Hearing held on 11 June 2019

Site visits made on 10 & 11 June 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Costs application in relation to Appeal Ref: APP/Z0116/W/19/3221225 62 Birchwood Road, St Annes, Bristol BS4 4QN

- 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 UKS Group for a full award of costs against Bristol City Council.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the demolition of the existing single dwelling and the erection of a 52-bedroom care home (Use Class C2) with bin/cycle store and parking, with Access, Layout and Scale to be considered.
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Decision

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

The submissions for UKS Group

2. The essence of the claim is that the issues in dispute between the main parties had been previously considered by an Inspector¹ for an identical proposal at the site and that there has been no material change in circumstances to justify a different decision.
3. There has been a change in the development plan since the previous appeal, but the policies stated on the decision notice for the previous application² directed the decision maker to consider similar matters, including highway safety. There is no evidence to suggest that current development plan policies would result in a different assessment.
4. The Council has, therefore, failed to place adequate weight on the previous Inspector's decision, has not treated similar cases in a similar manner and has failed to grant a further planning permission where one has recently expired.

The response by Bristol City Council

5. There are several material differences between the situation now and the time of the previous Inspector's decision. These relate to differences in the local and national planning policy frameworks and the presence of additional development in the local area. These justify a deviation from the previous Inspector's decision and do not amount to unreasonable behaviour.

¹ Appeal Reference: APP/Z0116/A/10/2127640

² LPA Reference: 09/04616/P

Reasons

6. The Planning Practice Guidance 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.
7. There is no dispute that the scheme before me and that before the earlier Inspector are essentially the same. Consistency in decision making is important and, unless there has been a material change in circumstances, significant weight should be placed on an earlier appeal decision.
8. The previous Inspector identified Highway Safety as a main issue. He was unconvinced that Searle Court Avenue experienced any undue parking pressure which, based on the evidence before me regarding the situation now, is not a finding I share. The Inspector's decision did not analyse the characteristics of the site access or the resulting relationship between different road users. Nor did the Council consider this to any great extent in their officer report for the corresponding application.
9. I note that Policy M1 of the Bristol Local Plan 1997 that was in force at the time of the previous appeal decision, required the provision of a safe access onto the highway network. It is fair to say that Policies BCS 10 of the Bristol Core Strategy 2011 and Policy DM23 of the Bristol Local Plan Site Allocations and Development Management Policies 2014 that are in force now maintain these principles. However, whilst the earlier policy required the provision of facilities for pedestrians and cyclists, there is an enhanced policy focus on prioritising pedestrian movement. This is also a clear part of the National Planning Policy Framework.
10. Although I have found no harm to highway safety, since the alleged conflict between pedestrians and vehicles is at the heart of the Council's concern, I do not find the Council's fresh consideration of this matter unreasonable. I do not know the full extent of evidence before the previous Inspector. However, given the lack of explicit assessment of this issue in the Inspector's decision and the wording of policies of the current development plan, I do not find that the Council failed to place sufficient weight on the previous decision.
11. Accordingly, whilst the cases are clearly very similar, I do not find that the Council's failure to grant a further planning permission for the development amounts to unreasonable behaviour.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Bale

INSPECTOR