
Costs Decision

Site visit made on 9 July 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Costs application in relation to Appeal Ref: APP/Z0116/D/19/3228732 1 Ashton Avenue, Hotwells, Bristol BS1 6XH

- 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 Mr Charles Potter for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for a single storey side linked extension.
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Decision

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

Reasons

2. Paragraph 030 of the 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 directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.
3. The applicant's case centres around the consideration of a 'permitted development' fallback, and whether the Council gave appropriate weight to this issue in their decision. The applicant states that the Council failed to follow their statutory obligations set out by legislation and case law, were vague in their justification of the decision, and unnecessarily prevented development which should have been permitted under the relevant material considerations.
4. It is made clear in the Council's reason for refusal and accompanying delegated report that a full and thorough assessment of the proposal was carried out against the relevant legislation, local policies, and other material considerations. The reason for refusal was complete, precise, specific and identified the policies which the proposal was considered to conflict with. The Council's delegated report describes the level of weight they attribute to each matter in reaching this determination, including the matter of the 'permitted development' fallback.
5. The described fallback had not been formally secured through the certificate of lawfulness process until after the application had been refused by the Council. The evidence shows that during the assessment process the fallback proposal was submitted informally as a proof of concept. The Council was therefore

entitled to weigh up the likelihood of the fallback scenario against the harm they identified to the Conservation Area.

6. Accordingly, I am satisfied that the Council appropriately considered the relevant matters pertaining to this scheme in determining the application.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason the application for the award of costs is refused.

J Gibson

INSPECTOR