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## Costs Decision

Site visit made on 11 January 2021

**by Neil Pope BA (Hons) MRTPI**

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

**Decision date: 18 January 2021**

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### **Costs application in relation to Appeal Ref: APP/Z0116/Y/20/3260048 Land to the rear of 85, Whiteladies Road, Clifton, Bristol, BS8 2NT.**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
  - The application is made by Eastman Estates Ltd for a full award of costs against Bristol City Council.
  - The appeal was against the refusal of listed building consent for the partial demolition of modern brick rear wall and construction of a 2-storey building for use as a 6 bedroom HMO (sui generis student use) with associated refuse and cycle storage (agreed amended description).
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### **Decision**

1. The application is refused.

### **Reasons**

2. The Government's Planning Practice Guidance advises that parties in appeal proceedings normally meet their own costs, but costs may be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Members of the Council are not bound to accept the advice of their officers. Nevertheless, at appeal, evidence must be submitted to substantiate reasons for refusal. Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, could result in an award of costs.
4. In withholding listed building consent against the advice of its officers the Council alleged harm to the settings of some adjacent listed buildings. However, no meaningful evidence was presented by the Council to demonstrate how the appeal site contributed to the significance of these designated heritage assets. The Council failed to substantiate its concerns over the proposed removal of a small section of modern brick wall and was unable to explain why, in the absence of any planning permission for the development of the site, there would be harm to the settings of the listed buildings. It therefore acted unreasonably in withholding consent.
5. However, as I noted within the appeal decisions, very similar statutory duties apply in respect of the applications for listed building consent and planning permission. Both the Council and I were required to have regard to these relevant duties when determining the respective applications and appeals. This would have been apparent to the appellant from the outset.

6. Although the Council did not refuse planning permission on the basis of its alleged harm to the settings of the listed buildings, given the statutory duties, it was incumbent upon the appellant to address the likely impact as part of its overall submissions at both application stage and then at appeal. In essence, the appellant's Statement of Case in the listed building appeal comprise matters that were necessary to support the accompanying planning appeal.
7. Whilst I found that the Council should not have withheld listed building consent, on balance, its behaviour did not result in the appellant incurring unnecessary or wasted expense in submitting evidence on this matter. This application for an award of costs should not therefore succeed.

*Neil Pope*

Inspector