



Costs Decision

Site visit made on 12 January 2021

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Costs application in relation to Appeal Ref: APP/Z0116/W/20/3254102 1st & 2nd Floors, 9A Union Street, Bristol BS1 2DD

- 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 Southey Aylward LLP for a full award of costs against Bristol City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application described as Change of use of first and second floors from a Class A1 use (shops) to a House in Multiple Occupation (sui generis).
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1. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The applicant considers that the Council acted unreasonably by making unsubstantiated claims and assertions and that the submitted evidence has not been considered or assessed.
2. The evidence before me indicates that the applicant and the Council were discussing the planning application. I note that amendments and additional details were also submitted to the Council by the applicant prior to the appeal being submitted in an attempt to overcome the Council's concerns with the proposed development. I am therefore satisfied that the Council was working with the applicant, as encouraged by the National Planning Policy Framework.
3. My attention has been drawn to a number of assertions in the Council's appeal statement that are said to be incorrect and based on an incorrect assessment of the submitted evidence. With regard to the amended proposed first-floor plan that the applicant previously submitted to the Council, I have found that some of the Council's assertions about the harm that it alleges would arise as a result of the proposed development would not occur. For example, with the amended proposed floorplan showing a separate first-floor recycling/refuse storeroom assessed off the hallway, the servicing of waste from within the HMO would not involve having to enter habitable rooms.
4. Accordingly, some of the harm suggested by the Council would not arise and some of its assertions are not substantiated by the submitted evidence. However, as set out in my decision letter for the appeal, other elements of the Council's appeal statement are based on a substantiated and reasonable assessment of the submitted evidence. The evidence submitted with the appeal indicates that the Council also consulted on the planning application prior to it receiving the amended proposed floorplans from the applicant. On this basis, it is not surprising that consultation responses, for example, reflected the

drawings originally submitted with the planning application rather than the floorplan showing the amended proposed first-floor layout.

5. Consequently, and despite some errors and misconceived allegations of harm being apparent when regard is had to the amended floorplan, I am satisfied that the Council's concern and overall position on the appeal proposal was not unreasonable. Although the policies listed in the Council's suggested refusal reason were not all fully detailed within its appeal statement, I have found that they all contained aspects relevant to the appeal proposal and the harm alleged by the Council.
6. In coming to this view, I have taken account of the references to the open storage area to the rear of the site, the references to both flats and HMO accommodation in the comments by the Bristol Waste Company, and the Council's allegation that the proposed development fundamentally conflicted with Policy DM2 of the Site Allocations and Development Management Policies Local Plan. Given the appeal was already made, there is nothing before me which indicates that these matters nor some of the Council's incorrect assertions in relation to the amended floorplan led the applicant to incur any obvious wasted or additional expense. It seems to me that it was also not unreasonable for the Council to highlight that an internal route to the basement store would be preferable.
7. Although I have come to a different conclusion to the Council and have allowed the appeal, this does not mean that it acted unreasonably overall. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

T Gethin

INSPECTOR