
Costs Decisions

Site visit made on 14 March 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal A: APP/Z0116/W/21/3280068

4 Ivywell Road, Sneyd Park, Bristol BS9 1NX

- 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 Andrew Eaton for a full award of costs against Bristol City Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as window replacement, new lower ground floor light well and alterations to lower ground floor rooms.
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Appeal B: APP/Z0116/Y/21/3280070

4 Ivywell Road, Sneyd Park, Bristol BS9 1NX

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Eaton for a full award of costs against Bristol City Council.
 - The appeal was against a refusal of the local planning authority to grant listed building consent for works described as window replacement, new lower ground floor light well and alterations to lower ground floor rooms.
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Decisions

1. The application for an award of costs in relation to Appeal A is dismissed.
2. The application for an award of costs in relation to Appeal B is dismissed.

Procedural Matters

3. The Council has not provided a response to the costs application. I have therefore considered it against the evidence otherwise set before me by the Council.

Reasons

4. 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.
5. The applicant claims that the Council acted on grounds which I summarise as:
 - (a) failure to understand the proposal, including the evidence presented;
 - (b) delay and failure to inspect the site;

- (c) failure to acknowledge public benefits; and
- (d) lack of consistency in decision making.

Ground (a)

6. A lack of understanding is hard to demonstrate. A distinction has to be drawn between this and simple disagreement. Here it is clear that the parties disagreed on many points. I am satisfied that the Council's officer reports otherwise indicate that the Council did in fact understand what was being proposed, and to that end I broadly agree with much of its assessment.
7. The steps from the plinth were nonetheless incorrectly identified by the Council as original, and this was repeated in the decision notices. This was unreasonable given evidence submitted to the contrary. Even so, it appears that the Council's overall assessment would have been little different in the absence of its error.
8. I appreciate that the appellant undertook to provide some further evidence in relation to the steps at appeal. However, given that I have found above that the evidence already submitted was sufficient to demonstrate the point, this further evidence was unnecessary. In this regard the responsibility for any related unnecessary expense must be borne by the appellant. Ground (a) therefore fails.

Ground (b)

9. It is apparent that the Council's assessment of the applications was adversely affected by the Covid pandemic. The time period in question indeed saw phases of national lockdown, and the correspondence supplied indicates that some Council officers were working remotely at the time. Delays in this context cannot be considered wholly unreasonable, even if the quality of communication could perhaps have been better. It is otherwise unclear how the time taken by the Council to determine the applications generated costs in relation to the appeals.
10. The specific reason for a lack of site visit is not stated in the material submitted. Correspondence however again indicates that this was most likely due to a combination of remote working and Government restrictions. Whilst the latter may not have precluded a site visit, it was made clear that this would only occur where deemed necessary. It is therefore logical to infer that a site visit wasn't deemed necessary. On that basis the Council did not act unreasonably by failing to visit the site.
11. Insofar as a failure to visit the site otherwise has relevance in relation to Ground (a), a visit might have confirmed which areas of fabric were not original. However, given that I have already established that other evidence was available, this could have been ascertained regardless. Ground (b) therefore fails.

Ground (c)

12. The parties clearly disagreed over what would and would not constitute the public benefits of the appeal scheme. However, there was no failure on the Council's part to consider such benefits within the context of the balance set out within the National Planning Policy Framework. Disagreement is not

unusual, and in this regard, I too have attached little or no weight to some of the public benefits advanced by the appellant. Ground (c) therefore fails.

Ground (d)

13. The scheme approved at 3 Ivywell Road was considered in the officer reports. The fact that there was similarity between the proposals was also acknowledged, as were differences in the design of Nos 3 and 4. Given such differences, and notwithstanding the fact that the 2 dwellings form part of the same listed building, the starting point for assessment was not identical, and nor therefore would be the effects. This provided some basis for variation in decision making.
14. Harm identified in relation to the exposure and emphasis of the lower ground floor, and in relation to the installation of aluminium framed double glazed doors, was however previously accepted in relation to No 3. On that basis the appellant had good reason to consider that similar proposals would be accepted at No 4. Here the difference in the Council's approach cannot be wholly accounted for in relation to differences in design. Some inconsistency is therefore apparent, and in the absence of clear justification, this was unreasonable.
15. I have however ultimately found that the scheme would be unacceptable on much the same basis as the Council. In this regard the previously approved works at No 3 in part serve to demonstrate the harm that would be caused to No 4. Therefore, despite the fact that the Council acted unreasonably in its assessment, I cannot logically find that it should have approved the scheme. It follows that the expense entailed in appealing the decisions was not unnecessary or wasted. Ground (d) therefore fails.
16. I find therefore that though the Council acted unreasonably in relation to Grounds (a) and (d), unnecessary or wasted expense in the appeal process has not been demonstrated.

Conclusions

17. For the reasons set out above, I conclude that the applicant's claim for an award of costs in relation to both Appeal A and Appeal B should be dismissed.

Benjamin Webb

INSPECTOR