

Costs Decision

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Costs application in relation to Appeal Ref: APP/Z0116/W/24/3341251 142 Chakeshill Drive, Bristol, BS10 6PG

- 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 Property Options for an award of costs against the decision of Bristol City Council.
 - The appeal was made against the refusal of an application, Ref 23/00018/F, which sought planning permission for the erection of 1no. attached 3-bedroom dwelling with parking and associated works.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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. Unreasonable behaviour may be either procedural or substantive.
 3. The Appellant argues that there has indeed been unreasonable behaviour by the Council. The Appellant feels that the development should clearly have been permitted, having regard to the development plan, national policy and any other material considerations. At the same time the Appellant argues that, by failing to properly look at other cases (including those cited by the Appellant), the Council was not consistent in its determination. Furthermore, the Council did not consider the revised drawings which would have aided acceptability and full account was not taken of the Appellant's relevant correspondence – there was a prevention/delay when development should clearly have been permitted.
 4. The Council argues that it set out concerns to the Appellant and offered the opportunity to withdraw the application prior to a likely refusal. Attention was drawn to Council's website to 'Planning Application Negotiation and Communication Framework' for further information on the broad approach taken towards negotiating on planning proposals. The decision of whether to accept amendments to applications is at the discretion of the Council; the Negotiation Framework is for guidance. In this instance the Council felt the issues were fundamental and would not be overcome by minor changes. The scheme was hence adjudged by the plans submitted initially which had been subject to consultation with neighbours and statutory consultees and the Council argues this was reasonable.
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5. Contrary to claims, the Council indicates that it considered the development plan, national policy and any other material considerations, and did give consideration to examples of other planning permission being granted within the wider locality. It says that clear reference is made within the delegated report to other examples highlighted by the Appellant, and the reasons why they are not comparable. In any event, every application should be assessed on its own merits. Evidence was provided within the delegated report to substantiate the reasons for refusal which are deemed by the Council to be complete, precise, specific and relevant.
6. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
7. I recognise that an appeal process can be time and fee consuming and that professional assistance comes at a cost. It is clearly regrettable when an applicant feels that the processing of a planning application could have been dealt with better. However, I am not persuaded that actions of the Council during that period directly lead to the appeal. The acceptance or otherwise of amended plans is discretionary, with some background guiding principles, and the original application was compiled by professions and taken as the scheme desired. Handling amended plans during determination of a planning application is often fraught and I have some sympathy with the Council's stance in this instance.
8. Furthermore, it does appear to me that the Appellant places too great an emphasis on other decisions reached locally within what is an extremely varied area. The Council clearly did consider a number of other sites, their history and form. However, circumstances do differ in terms of individual physical attributes and/or in applicable policy circumstances. In any event this case had to be dealt with on its own merits.
9. The determination delay was regrettable, although unfortunately not uncommon. While perhaps of little comfort, the Appellant would always have had the right to appeal against non-determination. Once it did deal with matters, I would assess that the Council has given clear reasons for the judgement it reached. I surmise that the Council dealt with the plans and information before them as presented within a professionally prepared planning application, considered all other material considerations, and reached a not wholly unsurprising or illogical decision on the scheme. This scheme was judged on its own merits. The refusal reason is clear and sets out unequivocally the concerns of the Council and cross-refers to applicable policies.
10. As it happens, I do not agree with the conclusion reached by the Council on the scheme and I did also accept the amended plans. However, I would nevertheless defend its wording and assertions in the round as not being unsubstantiated and its actions throughout the planning assessment process as not being irrational.
11. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR