



Costs Decision

Hearing held on 3 September 2024

Site visit made on 4 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Costs application in relation to Appeal Ref: APP/Z0116/W/24/3342055 8-10 Station Road, Shirehampton, Bristol BS11 9TT

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Bristol City Council for a full award of costs against Shirehampton Land Ltd.
 - The Hearing was in connection with an appeal against the Council's refusal of planning permission for redevelopment of the site to include care home with associated facilities, works to include access, parking, and landscaping.
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Decision

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

Preliminary Matters

2. The application was made in writing, and the appellant's response and Council's reply were made orally.
3. The Council's claim includes provisional costings. However, whilst these confirm that it seeks a full award of costs, it falls beyond the scope of this decision to scrutinise the figures any further.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 Council claims that the appellant acted unreasonably on grounds which I summarise as:
 - a) not completing a timely statement of common ground (SOCG);
 - b) delay in providing information and failure to adhere to deadlines; and
 - c) failure to respond to/take note of points raised in previous appeal decisions.

Ground (a)

6. The Council states, and the appellant acknowledges, that completion of the SOCG was subject of delay. The appellant attributes this to COVID and holidays.

7. The Council however also sought some extension of time at an earlier stage. It too partly attributed the need to COVID, as well as administrative issues.
8. Both parties were therefore responsible for delays relating to the SOCG at different points in the process, and both claim extenuating circumstances. It has not otherwise been shown how delay on the part of the appellant caused the Council any unnecessary or wasted expense. Insofar as this might have had some bearing on provision of evidence, the Council ultimately fell back on its officer report, which already existed. Ground (a) therefore fails.

Ground (b)

9. The appellant provided additional technical evidence at a late stage, shortly prior to the Hearing. This comprised a bat survey, tracking and shading diagrams, and a biodiversity net gain spreadsheet, each submitted in an attempt to address reasons for refusal. The intention was identified in the appellant's statement of case, and was not outrightly objected to by the Council. It was nonetheless unreasonable for the appellant to submit such evidence after the point at which the Council had prepared its statement.
10. The Council's expressed need for the submitted bat report was however debateable, and the conclusions of the report were straightforward. The submitted tracking and shading diagrams cannot themselves be considered complex, and the latter again simply confirmed points which could otherwise have been subject of judgement. Though the same cannot be said of the modified biodiversity net gain spreadsheet, the Council in any case indicated that the wrong version of the metric had been used.
11. It is therefore hard to see how the very limited amount of work generated by the provision of this information would have been any different had it been presented at an earlier stage.
12. For the above reasons Ground (b) fails.

Ground (c)

13. The application was determined and the appeal was lodged after a decision relating to a previous appeal for residential development on much the same site (the previous decision) had been issued. I do not have full details of that scheme, but insofar as it related to much the same site, concerns regarding the beech tree, biodiversity, privacy, character and appearance and heritage similarly arose.
14. A simple reading of the previous decision shows that the nature of the issues in question were not identical across both cases. The previous appeal involved a different form of development featuring a different design. Loss of the beech tree was assessed within the context of a different scheme of landscaping. Biodiversity concerns extended to purchase of credits. Assessment of window-to-window distances did not take account of examples within the broader area that were subsequently identified. Moreover, the planning balance in relation to each was not the same. It was therefore open to the appellant to argue that

any identified harm could be outweighed, particularly in relation to character and appearance and heritage related impacts.

15. Whilst the Council may have offered the appellant an opportunity to amend the appeal proposal prior to its determination of the application, there was no requirement for the appellant to do so. In lodging a further appeal, the appellant's statement of case otherwise confirms that the findings set out within the previous decision were taken into account.
16. The Council has referred to an earlier appeal decision, again relating to the site, but which in that case similarly related to a proposed care home. I have been provided with neither the decision letter nor any of the plans. Excerpts within the officer report however show that the Inspector in question was concerned about overheating, and identified a failure of that scheme to demonstrate the resilience of single aspect rooms. As set out within my main decision, an identical concern has been raised by the Council in the current case. However, since the appeal in question, Building Regulations relating to overheating have been published. Circumstances have therefore changed. Whilst the Council's concerns in the current case extend beyond overheating to energy use, it was not unreasonable for the appellant to consider that a matter that the Building Regulations are designed to address could be properly resolved within that context.
17. For the above reasons Ground (c) fails.

Conclusion

18. For the reasons set out above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated, and that an award of costs is not therefore justified.

Benjamin Webb

INSPECTOR