



## Costs Decision

Site visit made on 11 November 2024

**by Stuart Willis BA Hons MSc PGCE MRTPI**

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

**Decision date: 26 November 2024**

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### **Costs application in relation to Appeal Ref: APP/Z0116/W/24/3337490 334 Canford Lane, Westbury, Bristol BS9 3PW**

- 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 & Mr Jasbir & Gurdip Baryah for a full award of costs against Bristol City Council.
  - The appeal was against the refusal of planning permission for 2 no dwelling houses, including storage for refuse, recycling and bicycles.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. That the main parties disagree on certain matters does not indicate unreasonableness. The assessment of issues such as the effect of the character and appearance of the area involve an element of subjectivity. The Council set out their concerns and linked them to relevant development plan policies. The previous Inspector did include concerns over the mass and size of the properties, as I have.
4. From the officer report it is clear they were aware of the previous proposals, including those granted permission and the changes made from the previous scheme. There is no indication that they would have granted permission had specific weight been given to the fallback schemes. I have found the current scheme would result in harm on some of the same matters as the Council and that the fallback schemes would not be as harmful as it.
5. I have dismissed the appeal. Therefore, the Council were not unreasonable in refusing the application.
6. Issues relating to flooding, bin and cycle provision were not raised in the previous refusal and appeal despite being very similar to the current scheme. Furthermore, highway safety was an issue where the Inspector found no harm in the previous appeal. Moreover, the Council acknowledge that these matters could have been secured by condition.
7. Although the scheme would have been refused on other grounds and would not have avoided the need for the appeal, the applicant has had to respond to and address matters that could have been covered by condition and were in part

addressed in a previous appeal decision. This was unreasonable and would have led to the applicant incurring costs.

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of addressing matters relating to highway safety, flood risk, cycle and bin storage and a partial award of costs is therefore warranted.

### **Costs Order**

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bristol City Council shall pay to Mr & Mr Jasbir & Gurdip Baryah, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing matters relating to highway safety, flood risk, cycle and bin storage; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Bristol City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Stuart Willis*

INSPECTOR