



Costs Decision

Site visit made on 28 January 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2025

Costs application in relation to Appeal Ref: APP/Z0116/W/24/3349319

22 Kellaway Avenue, Henleaze, Bristol BS6 7XR

- 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 Cardyl Property Ltd for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for development described as “application to convert the existing ground floor health and fitness facility (Use Class E) and combine with existing 1st and 2nd floor small 4-person house in multiple occupation (HMO) to create a single large 8 person HMO (sui generis). External works include replacing the existing shopfront by windows to the communal living space and hall; removing the section of roof which currently covers the path joining the two parts of the building (and a gym room) and inserting roof lights to the rear of the property (above the kitchen and corridor).”
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Decision

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

Reasons

2. 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.
3. The PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. Amongst other things, this can include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; making vague, generalised or inaccurate assertions about a proposal impact; and acting contrary to, or not following, established case law.
4. Whilst I appreciate the outcome of the application will have been a disappointment to the appellants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the delegated report which adequately sets out how the proposal, in the Council’s opinion, would conflict with relevant adopted planning policies and Supplementary Planning Documents. In particular, whilst I have come to a different opinion, the Council have clearly identified how they consider the proposal conflicts with policies and guidance relating to HMO concentration.
5. Whilst the applicant considers irrelevant policies were used in determining the application, I am satisfied that these were relevant to the impacts of the proposed development that the Council were concerned with.

6. The applicant states that the Council did not consider the amended plans submitted by it during the application stage. However, whilst the National Planning Policy Framework (the Framework) states that Councils should “work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”, this does not mean that the Council is obliged to accept amended plans during a planning application. The appropriate time for the applicant to have sought to discuss the proposal with the Council would have been at the pre-application stage.
7. It is also claimed the Council failed to properly consider the weight to be given to a fallback scheme. The applicant has submitted the prior approval at the appeal site, which was granted on September 2024, some three months after the decision was made on the appeal scheme. As the appeal scheme pre-dated the submission of the prior approval (dated 17 July 2024) the Council were not in a position to consider it as a material consideration in their decision.
8. In their submission the Council acknowledge the existence of the fallback position but consider that as the prior approval was granted for a single flat, it was not comparable with the appeal scheme. Whilst I have come to a different conclusion to the Council, as the prior approval was granted after the appeal scheme was determined by them an appeal was not avoidable.
9. I acknowledge that I have reached different conclusions in my main decision to those reached by the Council. However, I am satisfied on the evidence before me that the Council adequately substantiated its refusal reasons through a sufficiently detailed and objective analysis of the proposal’s impacts, and why it would not be acceptable, having regard to relevant development plan policies. Consequently, I find that the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Tamsin Law

INSPECTOR