

Costs Decision

Hearing held on 10 May 2017

Site visit made on 10 May 2017

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 May 2017

Costs application in relation to Appeal Ref: APP/Z0116/W/17/3166495 Somerset House, 18 Canynge Road, Clifton, Bristol BS8 3JX

- 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 Messers Cook, Calver, Fenton and Dixon for a full award of costs against Bristol City Council.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for demolition of three storey office block. Erection of 8no. residential dwellings in two separate blocks with access and egress to Canynge Road. Block one comprises 1no. 3 bedroom and 2no. 4 bedroom town houses with two dedicated garage parking spaces per dwelling; block two comprises 5no. 2 bed flats with 8no. parking spaces (including 1no. disabled). Provision of secure refuse and bicycle spaces and associated hard and soft landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
 3. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by 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.
 4. The Council deferred their decision on the application at the Development Control Committee on the 19th October 2016 in order for their officer to look at the design of the proposal and the loss of the London Plane tree. Although I acknowledge the applicant held discussions with local ward members following the committee, I have no evidence to demonstrate that officers and the applicant had further negotiations. Following the conversations with ward members and having considered the dialogue at the committee meeting, the applicant chose to submit the appeal.
 5. Whilst it would have been prudent for officers to directly contact the applicant as per the committee's request, I do not consider the officers failure to do so before the appeal was submitted constitutes unreasonable behaviour. Indeed
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the absence of any contact from the applicant indicates both parties were guilty of failing to respond proactively to committee's wishes.

6. I recognise that following the lodging of the appeal, at the Development Control Committee meeting on 22 February 2017, Members resolved that had they been in a position to determine the application, they would have granted planning permission. Whilst this is an unusual stance to adopt, having already been in such a position and not granted planning permission, I do not consider this retrospective change of view necessarily means their original resolution at the October committee meeting was unreasonable.
7. Also significant objections from local residents necessitated a full and detailed defence of the proposal by the applicant, notwithstanding the Council's decision to not defend the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR