



Costs Decision

Site visit made on 29 July 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/F0114/W/19/3227168 6 Mount Road, Bath, Somerset BA2 1LD

- 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 Bath & North East Somerset Council for a full award of costs against Mr Kevin Liang.
 - The appeal was against the refusal of planning permission for the construction of a new house in the rear garden of 6 Mount Road.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. In summary, the costs application is made on the basis that the appeal was made shortly before the outline planning application (subject of the appeal) was due to be considered by the Council's planning committee with a recommendation for approval, and that, in these circumstances, the appeal was unnecessary. The applicant suggests that the appeal was made in an attempt to prevent the determination of the planning application by the Council's planning committee.
4. In response to the costs application, the appellant suggests that the local planning authority had had sufficient time to determine the application subject of the appeal, and that, despite the recommendation for approval, he was concerned that the application would be refused by the planning committee. For these reasons he resolved to exercise his right of appeal. He suggests that such action does not demonstrate unreasonable behaviour.
5. There is a prescribed statutory period¹ within which the local planning authority must give notice of a decision on an application for planning permission. There are procedures that allow for the formal extension of that prescribed period, which are referred to by both parties as an extension of time. Section 78 of The Town and Country Planning Act 1990 allows a person to make an appeal where the local planning authority have not given notice of their decision within

¹ Article 34 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

the prescribed period or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

6. In this case, whilst there was an initial agreement to formally extend the prescribed period, the appellant did not agree to the second extension and, as such, the prescribed period expired. The appellant is not obliged to agree to an extension of time.
7. It is evident that there was a reasonable prospect that the proposed development would be permitted and that there was little reason for the delay in the determination of the application. In these circumstances, I cannot find that the appellant has behaved unreasonably in making the appeal, despite the planning committee's subsequent resolution.
8. To conclude, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR