



Costs Decision

Site visit made on 5 November 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Costs application in relation to Appeal Ref: APP/Z0116/W/19/3233365 435 Fishponds Road, Fishponds, Bristol BS16 3AP

- 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 & Mrs L Rae for a full award of costs against Bristol City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for roof extension to existing garage to create gym and games room for household use.
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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 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 application for costs is largely based on the assertion the Council had failed to assess the application in the period following registration prior to the expiry of the statutory deadline for determination. Planning Practise Guidance states that if it is clear that a local planning authority will fail to determine an application within the time limits, it should provide a proper explanation. In an appeal against non determination the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
4. The Local Planning Authority should determine such applications within the 8-week deadline. Based on the available evidence the Council set out their initial assessment of the application to the applicant in advance of this deadline advising the application could not be supported. However, I can understand the applicant's frustration that an earlier coverage of issues could have been sent. A number of subsequent emails and phone calls between the parties occurred over a period of time which demonstrated a clear line of communication over issues with the application. This involved clarification on the external staircase which had initially been assessed as being on the rear access lane due to the labelling of plans. Similarly, there were discussions on local precedents on similar schemes in the locality.

5. These ongoing discussions between the parties over this period would have been aware of the statutory determination date of 15th July 2019 was approaching and would have passed. Further emails between the parties occurred with the Council requesting an extension of time to undertake a full assessment of the application. Whilst I can understand the frustration of the applicant for the continued delay to issue a decision notice, given the ongoing discussions regarding the proposal and the identification of precedents this would lead me to believe that a further review of the Councils initial views on the proposal was needed to take account of the applicant's views. Had an extension of time been agreed then views on the height and massing might have changed.
6. It is clear from the subsequent planning permission 19/03533/H that the Council have sought to work proactively to arrive at a scheme which they considered acceptable. Therefore, whilst the Councils views have changed regarding the height and massing of the proposal consistently, they have raised objections to the inclusion of the external staircase which has been omitted from the revised scheme.
7. I do not consider that there has been unreasonable behaviour in the procedure leading up to the appeal. Whilst it has become apparent through negotiation between the parties the Councils views have changed, the scheme as submitted would not have been supported. Consequently, the procedure leading up to the appeal has not caused the applicant any additional expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Stephen Thomas

INSPECTOR