



Costs Decision

Site visit made on 29 September 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Costs application in relation to Appeal Ref: APP/Z0116/W/20/3251223 281 Gloucester Road, Bishopston, Bristol BS7 8NY

- 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 Alan Karmi for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for erection of canopy and metal glazed enclosure to the existing outdoor seating area to the front of the premises.
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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. Unreasonable behaviour can either be procedural, relating to the process of an appeal or substantive, relating to the merits of any issues arising from an appeal.
3. The application for costs was made by the applicant with reference to a refusal to grant planning permission for the erection of a canopy and metal glazed enclosure to an existing outdoor seating area. The applicant states that the non determination of the planning application has forced the applicant to resort to the appeals system, which has incurred unnecessary cost and delay. However, the Council issued a decision on 30 January 2020 refusing planning consent for the above scheme. A planning appeal was submitted on 20 April 2020. Therefore, this cannot form an appeal against non determination.
4. The application was not determined in line with the statutory timeframes. From the evidence before me, no extension of time was formally agreed between the parties. Following an email to the applicant advising the retrospective application would be held in abeyance; pending the outcome of an Enforcement investigation given the structure had been extended further, the applicant responded to the effect they wished it determined or would appeal against non-determination. The Council responded later that day advising the application was refused with the refusal notice issued the day after.
5. Although the application was subsequently speedily determined in line with the applicant's wishes, discussion with the applicant regarding areas of the Council's concern does not appear to have taken place prior to them being

advised of the application being refused. However, even if I was to find some unreasonable behaviour on the Council's part in this regard, the Council's officer report and decision notice clearly sets out their considerable objection to the proposal with clear reasons for refusing the application. I consider it unlikely therefore, that a positive resolution could have been arrived at.

6. Therefore, even if I was to find some unreasonable behaviour on the Council's part in the process leading up to the decision, this has not resulted in the applicant pursuing an unnecessary appeal and this unreasonable behaviour has not caused the applicant any unnecessary or wasted expense during the appeal process.

Conclusion

7. For the reasons above, I do not consider the appeal could be avoided and no unnecessary or wasted expense was consequently incurred. For this reason and having regard to all other matters raised, an award of costs is therefore not justified.

S Thomas

INSPECTOR