

Costs Decision

Site visit made on 18 January 2021 by Ben Phillips BSc MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

**Costs application in relation to Appeal Ref: APP/F0114/W/20/3261295
31 Torridge Road, Keynsham, Bristol BS31 1QQ**

- 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 David Britton for a full award of costs against Bath and North East Somerset Council.
 - The appeal was against the refusal of planning permission for the erection of 1 detached bungalow and garages.
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Decision

1. The application for costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. It also sets out that costs may only 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. Unreasonable behaviour may include failure by the planning authority to substantiate a stated reason for refusal of planning permission. The submitted evidence makes reference to the Committee overturn nature of the decision and that it did not undertake a site visit before deciding the application.
4. Although I have found that harm to living conditions would not result, I am satisfied that the Council substantiated its concerns in this regard making reference to nearby dwellings, the proximity of the proposed dwelling and to relevant development plan policies. I am satisfied that the reasoning relating to the second reason for refusal, concerning character and appearance, has also been substantiated as part of the appeal with reference made to relevant policies of the development plan. Having regard to these matters I find that the Council has acted reasonably in the appeal process. Accordingly, unreasonable behaviour has not therefore been demonstrated in respect of these matters. The work undertaken by the applicant in this regard was a necessary part of his case.
5. The third reason for refusal however related to Strategic Green Infrastructure (GI). It has not been demonstrated by the Council, either in the Committee Minutes, appeal statement nor response to the costs application, that the appeal site is part of this GI and given this I find that the Council has failed to substantiate this reason for refusing the application. Accordingly, the applicant's time and expense in defending this matter was not necessary and has resulted in unnecessary or wasted expense on his behalf.

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6. In light of the foregoing I find that in respect of the third reason for refusal unreasonable behaviour, resulting in unnecessary or wasted expense has been demonstrated. A partial award of costs is therefore justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bath and North East Somerset Council shall pay to Mr David Britton, the costs of the appeal proceedings limited to those costs incurred in respect of defending the third reason for refusal relating to Green Infrastructure, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
8. The applicant is now invited to submit to Bath and North East Somerset Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

B Phillips

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that a partial award of costs is justified in this case.

R C Kirby

INSPECTOR