



Costs Decision

Site visit made on 6 July 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2021

Costs application in relation to Appeal Ref: APP/Z0116/W/21/3273715 All Saints Court, All Saints Road, Clifton, Bristol BS8 2JE

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Peter Vallance (All Saints Court (Clifton) Management Company Ltd) for a full award of costs against Bristol City Council.
- The appeal was against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission for 'Refurbishment of existing building. Conversion of garages to form 2 residential units. Extension to form 2 new residential units at roof level.'

Decision

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

Reasons

2. The Planning Practice Guidance (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. The PPG adds that in any appeal against non-determination, local planning authorities 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. The Council has fulfilled both of these requirements in its appeal statement and costs response, citing in respect of the former that the delay in reaching a decision was a result of operational delays experienced during 2020-21 due to enforced changes to working arrangements relating to the COVID-19 pandemic.
 4. The PPG also notes that all parties are expected to behave reasonably throughout the planning process. While the pandemic represents an extenuating circumstance in respect of the delay in reaching a decision, it does not reasonably account for the fact the appellant did not receive any direct communication in the many months that followed the validation of the application, at the very least seeking to agree alternative timescales for determination. As such, unreasonable behaviour has been demonstrated in this regard.
 5. Nevertheless, it is unlikely that better communication with the appellant would have enabled the appeal to be avoided altogether. The appellant previously tested the Council's disposition to the acceptability of a development scheme at the site through an earlier application, (Council Ref: 19/05666/F). The application was withdrawn following feedback from the Council that it would be refused and thereafter there were on-line discussions between the appellant
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and the Council in respect of proposed revisions. It is clear from the records of those discussions that the proposed scale of the roof extension would not be acceptable, with the Council taking the view that only a single new unit could realistically be accommodated at the roof level.

6. The ensuing application did not make any changes to the scale of the proposed extension and the appellant sought a scheme for two new units at the roof level, in the knowledge that the Council had previously confirmed it would only support one. Consequently, there was every likelihood the application would be refused, leading to an appeal. The Council also confirm that they did not receive any correspondence from the appellant prior to the appeal being lodged, indicating the appellant did not pursue any steps to avoid an appeal.
7. While unreasonable behaviour by the Council has therefore been established, costs can only be awarded where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The evidence outlined above indicates that an appeal could not have been avoided altogether. Moreover, the associated appeal decision supports the reasons why the Council would not have granted planning permission. Accordingly, the costs involved in the appeal process in this case were not unnecessary or wasted.
8. In light of the above, it is found that unreasonable behaviour, incurring unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated.

Conclusion

9. For the reasons given above and having had regard to all other matters raised, the application for an award of costs is refused.

C J Ford

INSPECTOR