



Costs Decision

Site visit made on 13 May 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Costs application in relation to Appeal Ref: APP/Z0116/W/23/3325156 39 High Street, Bristol, BS1 2AT

- 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 Adam Bryan 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 the change of use from public house to a nine bedroom boutique hotel. Erection of part fourth floor to create a further bedroom and outside space.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that 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. Essentially the applicant seeks the costs of undertaking the appeal because the Council failed to make a determination within the required period thereby causing unnecessary delay and adding to the costs of what he describes as a straightforward regeneration project. However, this largely presupposes that the development proposal will be allowed on appeal.
4. This is reinforced by advice in the PPG¹ which states that in any 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. If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.
5. The Council's explanation and apology for the delay was given at the outset in their acknowledgement of the planning application² and referred to a nationwide increase in planning applications over the last 24 months. As part of the appeal process, they adequately explained why permission would not have

¹ Paragraph 048: Reference ID: 16-048-20140306

² Dated 13.3.23

been granted had the application been determined within the relevant period. Moreover, it will be seen from my decision that I concluded there were substantive reasons that justified refusing planning permission and dismissing the appeal.

6. The frustration of the applicant in his inability to communicate with the Council to progress development proposals at the appeal site is entirely understandable. However, in relation to the appeal scheme, it is not shown that it clearly ought to have been permitted having regard to the development plan, national policy and any other material considerations. Furthermore, having regard to the level of information provided as part of the planning application, I am not convinced that better communication with the applicant within the prescribed period for the planning application would have easily rectified the conflicts with the development plan thereby obviating the need for an appeal.
7. It follows that unreasonable behaviour resulting in unnecessary or wasted expense within the meaning of the PPG has not been shown. Therefore, an award of costs is not warranted.

Helen O'Connor

INSPECTOR