



Costs Decision

Site visit made on 26 June 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Costs application in relation to Appeal Ref: APP/Z0116/W/23/3331125 Land to the rear of 2 and 2A, Howard Avenue, Bristol BS5 7BB

- 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 R D Singh and Mrs O Kaur for a full award of costs against Bristol City Council.
 - The appeal was against the refusal of planning permission for a new two bedroom dwelling.
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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. The PPG sets out that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. It states that unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
4. With regards to the behaviour of the Council in the process of determining the planning application, target dates are not always met for various reasons, and it is evident that the Council has significant issues in relation to allocating planning applications. Once allocated to an officer however, the case was determined swiftly. It is not clearly demonstrated that the delay has caused unnecessary or wasted expense related to the appeal.
5. Similarly, it has not been demonstrated that inadequate communication in terms of unanswered emails and phone calls prevented discussion during the application process, and the submitted emails do show some, albeit limited email correspondence with the Council, for example providing comments from the Transport Development Manager. Therefore, again, it has not been clearly demonstrated that in this respect unreasonable behaviour by the Council has led to unnecessary or wasted expense in the appeal process for the applicant.
6. Pre-application advice can be taken into account and given weight in the planning application process; however, it is not always possible to provide detailed advice in terms of consultee responses like highways comments at that stage. In any case, such advice is not binding. Whilst not referred to in the

Officer Report, it is entirely within the gift of the applicant to bring to the Inspector's attention any additional information that they feel may improve understanding of the context of the proposed development. The planning history of the site, the rebuttal comments or indeed the examples of other development considered similar around the city mentioned in their evidence, has been taken into account in reaching the decision on the appeal. The weight given to these matters is a matter for the decision maker.

7. The comments within the pre-application advice are not explicitly supportive of the design of the proposal. Therefore, it was not unreasonable for the Council to come to a different position, for example in terms of design.
8. There are some issues raised in the Officer Report that do not translate into the refusal reasons, however these do not obscure the Council's arguments to the degree that they were unclear. In determining the appeal, I have reached a similar conclusion to the Council in terms of character and appearance having had regard to all the information before me. However, even if I had reached a different conclusion, the case put forward by the Council was sufficiently clear and based on relevant local and national planning policies and its reasons for refusal were adequately substantiated.
9. Even if the case officer did not visit the site, there is nothing in the Officer Report does not suggest an understanding of the site and its context.
10. Accordingly, it has not been demonstrated that the applicant's time and expense in defending this matter was not necessary and has resulted in unnecessary or wasted expense on their behalf.

Conclusions

11. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for an award of costs is therefore refused.

B Phillips

INSPECTOR