The Planning Inspectorate

Costs Decision

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th august 2024

Costs application in relation to Appeal Ref: APP/Z0116/D/24/3344110
31 Sea Walls Road, Bristol, BS9 1PG

- 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 Johnson for an award of costs against the decision of Bristol City Council.
- The appeal was made against the refusal of an application, Ref 23/01478/H, which sought planning permission for the erection of roof extension to front.

Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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 may be either procedural or substantive.

3. The Appellant argues that there has indeed been unreasonable behaviour by the Council. The Appellant cites the Council's lack of response over a long period before, at short notice, indicating that the application was to be refused. The Appellant was given only three working days to respond and did raise concerns with the process which should have led the Council to an informed decision. However, the Council appeared to be entrenched in its position. Furthermore, the Council did not have due regard to its own design guidance and provided no detailed evidence within the Officer Report in relation to matters such as consistency with other decisions and the planning history of this specific site with its approved alterations scheme.

4. The Council has not commented on the Appellant's claim.

5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.

6. I recognise that an appeal process can be time and fee consuming and that professional assistance comes at a cost. It is clearly regrettable when an applicant feels that the processing of a planning application could have been dealt with better. However, I am not persuaded that actions of the Council during that period directly lead to the appeal.

7. It appears to me that the Appellant places too great an emphasis on other decisions reached locally within what is an extremely varied area. Similarly, the historic approval for works at the appeal site is markedly different from that now proposed and should not be overly relied upon. Circumstances do differ in individual physical attributes and in applicable policy circumstances. In any event this case had to be dealt with on its own merits. I note the point about the Design Guidance and its content but such publications cannot be expected to cover every eventuality. An example within an SPD is not necessarily transferable everywhere.

8. I would agree that the determination delay is regrettable, although unfortunately not uncommon. While perhaps of little comfort, the Appellant would always have had the right to appeal against non-determination. Once it did deal with matters, I would assess that the Council has given clear reasons for the judgement it reached. I surmise that the Council dealt with the plans and information before them as presented within a professionally prepared planning application, considered all other material considerations, and reached a not wholly unsurprising or illogical decision on the scheme. This scheme was judged on its own merits albeit there was mention of the fear of precedent. The refusal reason is clear and sets out unequivocally the concerns of the Council and cross-refers to applicable policies.

9. As it happens, I do not agree with the conclusion reached by the Council on the scheme. However, I would nevertheless defend its wording and assertions in the round as not being unsubstantiated and its actions throughout the planning assessment process as not being irrational.

10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR