



Costs Decision

Site visit made on 14 January 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Costs application in relation to Appeal Ref: APP/Z0116/W/24/3350402

88 Briar Way, Speedwell, Bristol BS16 4JL

- 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 Pingue for a partial 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 planning permission for the erection of an ancillary annexe.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the Guidance) 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 Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs and the response of the Council has been made in writing and will not be repeated here in any detail. The appellant considers the Council has acted unreasonably by failing to respond to communications to discuss the case. No decision was made on what is simple householder development, resulting in raising an appeal against non-determination, and the reasoning for the refusal has not been demonstrated.
5. For the reasons given in the appeal decision there are substantive reasons for dismissing it and refusing planning permission. The Guidance makes it clear that where a Council has failed to determine an application within the time limits, it should give a proper explanation. The onus is on the Council to explain why a decision was not reached within the relevant time period, and why permission would not have been granted had the application been determined.
6. The Council engaged with the appeal and costs processes, providing evidence to explain why a decision was not reached, and also why the scheme would have been refused. The appeal statement cited the concerns of the scale, function and

- form of the annexe, and that it would be an overbearing feature for neighbouring residents, as well as cause a loss of privacy.
7. Both parties have provided evidence of the communication that occurred once the Council had come to a recommendation on the original application. The Council notified the appellant of the intention to refuse the application a few days after the eight-week deadline. Subsequent communication from the Council made it clear that revisions would not be acceptable, as well as inviting the appellant to withdraw the application. Such a stance was not unreasonable of the Council as in addition to the issues raised by the proposal, there were also drawing inconsistencies within the original application. Notwithstanding this, the appellant continued to seek to revise the scheme rather than withdraw it.
 8. The delay in issuing a decision notice was primarily due to an absence of leave, although why prior to that occurrence no decision was issued remains unclear. This was remiss of the Council, particularly as this was a period of several weeks. It might have been the intention to refuse the application on return to work, albeit by that time the appeal had been submitted.
 9. Whilst the Council has explained concerns about the size and nature of the annexe, at the appeal stage the impact of the scheme upon the living conditions of nearby residents was introduced. This had not been referred to in communication with the appellant, and not surprisingly the appellant did not address this within their appeal statement. Nevertheless, the appellant would have had an opportunity to address this matter at the final comments stage, albeit this opportunity was not taken.
 10. The consideration of applications involves matters of judgement that are at times finely balanced based on complex evidence. In this case the scheme raises several considerations, and the Council gave a different weight to the issues than the appellant. Failing to determine the case was remiss of the Council, as was the introduction of the matter of living conditions at the appeal stage. However, as the appellant did not address living conditions during the appeal, there has been no wasted time or expense regarding this matter.
 11. Waiting for a decision would have been frustrating for the appellant. Nevertheless, the Council has been consistent in stating that the scheme would be refused, that revisions would not be acceptable, and that the application should be withdrawn. However, the appellant did not do this, and it is not the case that development that would have been permitted has been unacceptably delayed. Given the particular circumstances of this case, the decision to appeal rather than withdraw the application would have been one for the appellant to make.
 12. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

J J Evans

INSPECTOR