



Costs Decision

Site visit made on 24 August 2010

by **Roger Mather MA Dip Arch RIBA FRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
15 September 2010

Costs application in relation to Appeals Refs: APP/Q1445/A/10/2121011 & APP/Q1445/E/10/2121013

2A Basement Flat, Wykeham Terrace, Brighton BN1 3FF

- 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 Miss Pamela Webb for a full award of costs against Brighton & Hove City Council.
- The appeal was made against the refusal of planning permission and listed building consent for the installation of a galvanised back to wall ladder and railing.

Summary of Decision

1. The application is refused.

Reasons

2. Circular 03/2009 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.
3. It is clear that there was officer-level involvement over a period of time dating from July 2001 when the applicant met with a representative of the Council's Private Sector Housing Team, who was content with an escape ladder in this position. This was confirmed in March 2002. The ladder was erected in 2009, following which a different representative of the Private Sector Housing Team confirmed that the ladder was regarded as appropriate, in accordance with the advice given in 2002, but re-entry would be an acceptable alternative. In April 2009, the Council's Planning Department advised the applicant to submit planning and listed building consent applications to regularise the works.
4. While it is argued that there is a history of pre-application discussion with officers dealing with housing legislation, the appellant did not engage with the local planning authority prior to installing the wall ladder and railing. Subsequently, Building Control officers became involved when officers from the local planning authority were processing the applications.
5. Despite the criticisms, I find that the correct statutory procedure was followed and the decisions to refuse planning permission and listed building consent were made in light of comment by the Conservation and Design Team and the Council's Building Control and Private Sector Housing Teams. Given these circumstances, there is nothing to suggest that the local planning authority had

no regard to the sensitive history and advice given 8 years earlier, in arriving at its decision. It is not disputed that the Private Sector Housing Team failed to advise that planning permission and listed building consent would be required for the works, but parties should be willing to accept the possibility that a view taken in the past by officers dealing with other legislation may no longer be supported by the local planning authority. Moreover, although I have come to a different view, it was not unreasonable for the local planning authority to arrive at the decisions it did in the manner it did.

6. Allegations of mishandling applications through lack of communication between departments should appropriately be made to the City Council, which has its own complaints procedure: there is no remedy by a statutory right of appeal.
7. On the matter of the case officer's site visit and report, the local planning authority explains that it is normal practice to summarize comments made by consultees, which are factual and do not amount to discrepancies. In carrying out the site visit, it is unnecessary to enter the site if the relevant parts can be seen sufficiently to judge the works. While the applicant considers that the case officer's actions in viewing the works from the neighbouring flat might be unreasonable, it clearly did not lead to unnecessary costs being incurred.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not been demonstrated.

Roger Mather
INSPECTOR