



## Costs Decision

Site visit made on 2 April 2013

by **David Harmston FRICS DipTP MRTPI**

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

Decision date: 10 April 2013

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### **Costs application in relation to Appeal Ref: APP/Q1445/D/13/2192993 19 Queens Park Terrace, Brighton, East Sussex BN2 9YA**

- 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 F Trewick for a full award of costs against Brighton & Hove City Council.
  - The appeal was made against a refusal of planning permission for a development described as 'loft conversion with box dormer to the rear elevation and roof light to the front elevation.'
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#### **Decision**

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

#### **Reasons**

2. Circular 03/2009 (*Costs Awards in Appeals and other Planning Proceedings*) 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. The appellant states that the unnecessary costs of the appeal have been incurred because of the unreasonable behaviour of the Council in the manner in which this matter was conducted. Particularly, the Council has acted inconsistently in the way it has dealt with various planning applications in Queens Park Terrace for the construction of rear dormers which do not comply with the guidance set out in its Supplementary Planning Guidance – *Roof Alterations and Extensions* (SPG).
4. Planning permission has been recently granted in the same street for a similar form of development to that proposed by the appeal which does not conform to the terms of the SPG. Nothing has changed in the meantime concerning policy either nationally or locally and the Council has not properly explained why a different decision has been taken in respect of the appeal proposal which should have been permitted. Although it has not been cited by the applicant, I take this application to be one made in the context of paragraphs B15 and B29 of Part B of the Circular.
5. The Council states that in determining the application at the appeal site it fully considered all the examples of other dormer-type developments within the area to which its attention was drawn. It assessed the proposal against the guidance set out in the SPG and it was found that there were various conflicts

therewith. Additionally the development would be in conflict with the National Planning Policy Framework which seeks to secure a high standard of design and level of amenity in all proposals. The appellant was advised at an early stage that the proposal was unlikely to be acceptable. The presence of the existing dormers elsewhere was taken into account in determining the application but these were different from the appeal proposals in a number of key respects.

6. As I have made clear in my decision, each case falls to be considered on its own planning merits. Although a material consideration, the Council is not bound by precedent. In any event there are a number of differences between the appeal proposals and the other examples of dormer-type development that have been referred to. The proposal does not conform to the guidelines set out in the SPG and the Council was fully entitled to reach the decision it did on the planning merits of the development. It had forewarned the appellant of its likely decision.
7. Paragraph B18 of Circular 03/2009 states that where the outcome of an appeal turns on matters of judgement concerning the character and appearance of a local area it is unlikely that costs will be awarded against a Local Planning Authority if realistic and specific evidence is provided about the consequences of a proposed development. I consider that the Council has complied with this requirement and fully demonstrated why the appeal development is unacceptable notwithstanding the presence of comparable forms of development within the neighbourhood to the site.
8. In summary, and based on all the circumstances of this case and the guidance set out in Circular 03/2009, I find that it has not been demonstrated that there has been any unreasonable behaviour on the part of the Council leading to any unnecessary or wasted expense by the appellant. I therefore refuse the application for an award of costs by the appellant.

*David Harmston*

Inspector