



Costs Decision

Site visit made on 14 August 2013

by **Ray Wright** BA(Hons) DipTP MRTPI

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

Decision date: 22 August 2013

Costs application in relation to Appeal Ref: APP/Q1445/D/13/2200103 11 West Street, Rottingdean, Brighton BN2 7HP

- 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 & Mrs Stephens for a full award of costs against Brighton and Hove City Council.
 - The appeal was made against the refusal of planning permission for a 'rear extension to enlarge existing kitchen'.
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Decision

1. The application for an award of costs 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. In support of their claim the appellants specifically refer to paragraphs B16 and B18 of the Circular, citing that the Council failed to produce substantive evidence to support their case and that vague and generalised assertions were made regarding the impact of the extension.
 4. This appeal had two main issues relating to the effect of the development on the character and appearance of the area, and the effect on the occupiers of the adjoining property, both of which involve a matter of judgement. In such cases, it is inevitable that opinions will vary. I note the appellants strongly disagree with the Council's assessment and subsequent decision, nevertheless it was a judgement the Council were entitled to reach.
 5. As highlighted by the appellants Paragraph B18 of the Circular notes that where the outcome of an appeal turns on an assessment of such issues it will be unlikely that costs will be awarded if realistic and specific evidence is provided.
 6. The Council indicate that the application was properly considered and that their decision, the subject of this appeal, is based on sound planning merits. The officer's report, submitted as part of the appeal, clearly sets out the concerns of the Council in respect of the form and layout of the development and their
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views on the impact on the character of the area and the harm caused to the 'amenity' of the adjoining occupiers. The report makes appropriate reference to the National Planning Policy Framework and the reasons for the decision refer to the relevant adopted Local Plan policies.

7. Although I have disagreed with the Council's judgement and allowed the appeal, I am of the view that the delegated report and consequent decision letter adequately and clearly conveyed the Council's objections to the scheme.
8. I conclude that the Council acted reasonably in its consideration of the development. I do not consider that the Council's case was unjustified or substantially deficient in the way it was presented. Therefore, I do not consider that the Council has acted unreasonably in respect of the substance of this particular case.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Ray Wright

INSPECTOR