



Appeal Decision

Site visit made on 3 February 2014

by D Lamont BSc(Hons) MBA MRTPI MCMl

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

Decision date: 6 February 2014

Costs application in relation to Appeal Ref: APP/Q1445/D/13/2211132 346 Dyke Road, Brighton, BN1 5BB.

- 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 appeal is made by Mr & Mrs P Coleman for a full award of costs against Brighton & Hove City Council.
 - The appeal was made against the refusal of planning permission to add rooms in the roof with shower room and bathroom. Change of use of garage to habitable room. Removal of conservatory to rear. Balcony to first floor bedroom. To render the building to match in with neighbours property. Re-tile all roofs to building. Internal alterations.
-

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. With reference to Paragraph B18 of the Circular, planning appeals often involve matters of judgement concerning the character and appearance of a local area. Where the outcome on an appeal turns on an assessment of such issues it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the proposed development.
4. From the evidence before me, while I have come to a different conclusion, respectable evidence has been provided to substantiate the Council's decision as expressed in its decision notice.
5. I recognise that the proposal may have design elements which reflect those found in neighbouring properties. However, the circumstances of the appeal site and the subject development are different from those which relate to the adjacent property at No. 344 Dyke Road.
6. There is no evidence that the Council gave inadequate regard to all the issues in respect of impact on the character and appearance of the host building and the area within the individual circumstances of the site and the subject development; unduly delayed its decision process; nor determined the application other than impartially on the planning merits of the case.

7. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

D Lamont

INSPECTOR