
Costs Decision

Site visit made on 3 March 2014

by **J L Cheesley BA (Hons) DipTP MRTPI**

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

Decision date: 5 March 2014

**Costs application in relation to Appeal Ref: APP/Q1445/D/14/2212505
Land at Pineglade, Bazehill Road, Rottingdean, Brighton,
East Sussex BN2 7DB**

- 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 Richard Byrne for a full award of costs against Brighton and Hove City Council.
 - The appeal was made against the refusal of planning permission for a replacement garage, store and workspace.
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Decision

1. I refuse the application for an award of costs.

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. I realise that the planning officer's report contained some inaccuracies. Nevertheless, the Council provided a clear explanation of its reasons for refusal, with reasonable planning grounds. The Council was entitled to raise concern with regard to the effect of the proposal on the character and appearance of the conservation area. This is a matter of judgement. The Decision Notice referred to Local Plan Policies in this respect.
4. The appellant has stated that comments arising from the previous case officer's report and previous Appeal Decision had clearly defined the design revisions necessary from the previous proposal. I have not been made fully aware of all previous planning advice and the previous Appeal Decision does not provide specific advice. I realise that the Council's Heritage Team considered the proposal acceptable, although noting that the design could be approved upon. Nevertheless, the decision maker is required to balance all issues in reaching a decision.

5. It is up to the appellant to seek pre-application advice. The Council has indicated that the appellant's agent was fully aware that pre-application advice the Council offers through its householder duty appointment procedure could be sort at any time. The level of service in comparison to neighbouring Councils is not a reason to award costs.
6. The Council has indicated that the scale of the amendments it would require would have been considerable and thus amendments were not sought. From the representations before me, it is unlikely that further dialogue would have altered the outcome of the planning application. Therefore, I do not consider that the Council has acted unreasonably in this respect.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

J L Cheesley

INSPECTOR