



Costs Decision

Site visit made on 4 April 2014

by Martin Andrews BSc(Econ) MA(Planning) DipTP & DipTP(Dist) MRTPI

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

Decision date: 28 April 2014

Costs application in relation to Appeal Ref: APP/Q1445/A/13/2207937 Site at 68a St Georges Road, Brighton BN2 1EF

- 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 Sussex Property Investments Ltd for a full award of costs against Brighton & Hove City Council.
 - The appeal was made against the refusal of planning permission for the demolition of the existing building and roof covering over the site. Change of use and redevelopment to provide 3 x 3 bedroom houses with associated landscaping.
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Decision

1. The application for an award of costs is refused.
2. The application for costs was made and responded to on the basis of Circular 03/2009, which has been superseded by planning guidance published by the Government on 6 March 2014. However, having regard to the submissions put to me, I am satisfied that no party's interests will be prejudiced by my judging the application and response against the planning guidance.

Reasons

3. The planning guidance explains that costs will normally be awarded when unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 4. The appellant considers that the Council has behaved unreasonably because in its appeal statement it failed to have regard firstly to additional information on the relationship between the proposed new properties and the rear of the existing properties in St George's Road, and secondly to the relevance of a similar approved mews scheme. However the Council's appeal statement did in fact refer to the amended fenestration and its effect on both overlooking and natural light. However the thrust of the statement was to highlight the Inspector's views on the previous appeal and I consider this to be a reasonable approach.
 5. The Council's case at appeal is in fact the combination of the 'six week appeal statement' and the officer report. The latter refers to the differences between the two schemes and states that there is '*additional information clarifying the relationship between the proposed development and surrounding properties*'.
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In the main body of the report, under 'Impact on Amenity: Neighbouring Occupiers', there is a description of the content of the additional plan submitted as part of the fresh application. There are then two further references as to why this plan, in the Council's view, makes the overlooking and inter-looking between the proposed and existing properties worse than in the previous scheme.

6. In the section entitled 'Future Occupiers' the report refers to how the amended fenestration in the resubmitted scheme would improve daylight and outlook in the proposed properties. There is also mention of the daylight calculations and that the information given has established that the light levels to the properties would be acceptable.
7. I therefore consider that the Council did have regard to the additional information submitted. I acknowledge that there was not a particularly thorough analysis in respect of the additional details put forward in a form that would have supported the appellant's case. However the fact that this information did not then persuade the Council to grant permission is ultimately a matter of planning judgement and was therefore not unreasonable behaviour as described by the new guidance.
8. I accept that the Council did not refer to the permission at St James's Street Mews but this alleged precedent does not go to the root of the appellant's case for the appeal to be allowed. Moreover in the event, I have not found it to have sufficient materiality to alter my conclusions on the main issues.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the planning guidance, has not been demonstrated.

Martin Andrews

INSPECTOR