
Costs Decision

Site visit made on 14 May 2014

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 13 June 2014

Costs application in relation to Appeal Ref: APP/Q1445/D/14/2215684 16 Waldegrave Road, Brighton, BN1 6GE

- 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 J and Mrs C Holden for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for single storey side/rear extension.
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Decision

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

Reasons

2. The application for costs was made and responded to on the basis of Circular 03/2009, which has been superseded by the Planning Practice Guidance issued on 6 March 2014 (the Guidance). However, having regard to the submissions put to me, I am satisfied that no party's interests will be prejudiced by my considering the application and response against the Guidance.
3. The Guidance, advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and where this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
4. In this case, the applicant indicates that the Council has failed to determine similar cases in a consistent manner (paragraph 49 of the Guidance). A number of cases, determined by both the Council and the Planning Inspectorate have been cited¹; however I have not been supplied with the full details of these proposals.
5. At the same time, it is well-established planning practice that each and every application is considered on its own merits, as there can be a number of factors which will need to be considered by the decision-maker. One such factor is the context of the proposal, and in this case I have no evidence that the other sites were for identical schemes or that the factors under consideration would have been directly comparable. My experience suggests that the context of one site, which can at first appear very similar to another can, on closer inspection, be different and lead to a different overall conclusion in terms of acceptability.

¹ BH2012/03445 and APP/Q1445/D/13/2193437, with developments at Nos 30, 36, 52 and 58 Waldegrave Road cited, but unreferenced.

6. In this case the application was considered by the Planning Committee, for which a copy of the minutes have been supplied, dated 19 February 2014. I note the appellants concerns over the shortcomings of the Council's general approach. However the evidence shows that other cases were considered and the reasons for refusal were substantiated and not vague, generalised or inaccurate assertions. Although I have come to a different overall conclusion, this was based on the evidence before me and, due to its design facets, there is a degree of subjectivity involved.
7. In conclusion, I am not convinced that the applicants were subject to unnecessary or wasted expense in providing further evidence at the appeal stage. The reasons for refusal and the evidence presented for the appeal were not unreasonable. It is therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
8. For the reasons given above, I refuse the application for an award of costs.

Cullum J A Parker

INSPECTOR