
Costs Decision

Site visit made on 2 February 2016

by Mr Kim Bennett BSc DipTP MRTPI

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

Decision date: 3rd March 2016

Costs application in relation to Appeal Ref: APP/Q1445/D/15/3134936 Land at 18 McWilliam Road, Brighton BN2 6BE

- 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 Ryan Kendall for a full award of costs against Brighton & Hove City Council.
 - The appeal was made against the refusal of planning permission for a roof conversion incorporating hip to gable extensions and rear dormer.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 respect of the above, the appellant argues that the Council misdirected itself in that there was no conflict with its Supplementary Planning Document – design guide for extensions and alterations 2013 (SPD), and that the Council considered only a small section of the street rather than the streetscape as a whole. However, whilst I came to a different conclusion from the Council in a separate decision, I consider that its concerns were clearly set out in both its officer report and the decision notice.
4. In respect of conflict with the SPD, the Council referred to the fact that the size of the dormer would be excessively scaled, would consume much of the rear roofspace and with poor window alignment with the building below. As such it was at variance with guidance in the SPD. Although I did not attach the same weight to that variance given the secluded location of the dormer at the rear, and notwithstanding the fact that the SPD is for guidance purposes only, it was nevertheless a justifiable and valid point to make by the Council.
5. Similarly in respect of streetscape, the Council put forward clear and cogently formed arguments as to why it considered the proposed roof alteration would be unacceptable in the streetscene. Although it focussed primarily on the relationship with adjoining buildings, rather than the streetscene as a whole, those building nevertheless form part of the overall streetscape. As above, although I reached a different view than the Council, I consider that its arguments were soundly put and based on clear land use planning

considerations with reference back to adopted Development Plan policies. I acknowledge, as the appellant points out, that there is no directly comparable example in the SPD by way of illustration, to the appeal proposal, but that in itself did not amount to unreasonable behaviour in my view as it seems to me the Council was simply trying to apply the somewhat generalised guidance in a different situation. Furthermore, the reason for refusal did not specifically state that there was any conflict with the whole of the streetscape in McWilliam Road. In that respect it is a matter of judgement as to the impact of the proposal on that wider streetscape and whilst I reached a different conclusion from the Council in that respect, it does not follow that the argument put forward had no substance.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Kim Bennett

INSPECTOR