
Costs Decision

Site visit made on 3 April 2017

by Sandra Prail, MBA, LLB (Hons), Solicitor (non practising)

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

Decision date: 02 May 2017

Costs application in relation to Appeal Ref: APP/Q1445/X/16/3165939 Land at Gateways, Highdown Road, Hove, BN3 6EE.

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Peel for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal to grant a certificate of lawful development (LDC) for proposed building works included on plans attached to the application namely, block plan, location plan and drawing MM/02/Gateways.
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Decision

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

Reasons

2. The *Planning Practice Guidance* (the Guidance) advises that irrespective of the outcome of the appeal, 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. The Appellant argues that the Council was unreasonable in refusing the application for a LDC. But I have found in my substantive decision that the refusal was well founded. Whilst I understand that the Appellant disagrees with the decision that does not make it unreasonable.
4. The Guidance indicates that a local planning authority is likely to be at risk of an award of costs where, for example, they delay providing information or fail to adhere to deadlines.
5. It is accepted by the Council that there were delays in its determination of the application. The Appellant argues that if he been notified of the delay the appeal may have been avoided or that he could have been given the opportunity to submit amended plans. But there is nothing before me to suggest that the appeal would not have gone ahead or that a different outcome would have been arrived at if the Appellant had been contacted about the delay. The onus on the Council was to determine the application before it. Whilst I sympathise with the Appellant in that the application was not determined promptly I do not on the evidence before me find the delay in determining the application to comprise unreasonable behaviour which has caused unnecessary or wasted expense.

6. The Guidance states that if a local planning authority prolongs proceedings by introducing a new reason for refusal, or fails to produce evidence to substantiate each reason for refusal this may give rise to an award of costs.
7. The Appellant argues that the Council's reasons for refusal as stated in the decision notice are unclear. He complains that the reference to Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) without citing the relevant conditions and limitations is unreasonable.
8. The Council's decision was that the development would not be permitted by Class A. The Council's report to committee clearly cited which parts of Class A were alleged not to have been met and the Council's evidence addressed the relevant conditions and limitations of Class A. I consider that the grounds for refusal were clear and I do not find the Council to have acted unreasonably in this respect.

Conclusion

9. For the reasons given I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated. I therefore conclude that the award of costs sought by Mr Andrew Peel against Brighton & Hove City Council is not justified in whole or part. The application should be refused.

S. Prail

Inspector