

Costs Decision

Site visit made on 7 February 2017

by L Gibbons BA (Hons) MRTPI

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

Decision date: 11 May 2017

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3159819 85 Rotherfield Crescent, Brighton BN1 8FH

- 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 Morel De Mendonca for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a proposed attached dwelling.
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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 costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense.
 3. The applicant's principle submission of unreasonable behaviour relates to the Council's handling of the planning application that led to a failure to determine it within the prescribed limit. The applicant refers to paragraph 049 of the Guidance that sets out that the Council should give the applicant a proper explanation if it is clear that they will fail to determine an application within the time limits.
 4. From the information provided by the Council and the applicant, extensions of time had been sought by the Council. I note that one of the emails from the Council was not correctly addressed although the applicant does appear to have received it. That said, whilst clarification is provided in the Council's response to the costs application that the volume of planning applications resulted in delays, there was no similar information provided in response to the appeal. In addition, the original emails from the Council do not explain the reasons for the request for extensions of time. I consider the Council behaved unreasonably in this particular respect by failing to provide the applicant with a proper explanation.
 5. However, the appeal did not succeed as I have concluded that the scheme would cause harm to the character and appearance of the area, and that it would not provide an acceptable standard of accommodation for future occupiers in respect of the internal space. The applicant's evidence in these matters was therefore a necessary part of the appeal process. The Council
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justified and adequately explained their position in relation to the concerns about the proposal in the Council's officer report. The Council also referred to the relevant development plan policies. I also note that the Council had previously explained to the applicant that they had fundamental concerns with the scheme, and I am not persuaded that the appeal could have been avoided altogether.

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

L Gibbons

INSPECTOR