



Costs Decision

Site visit made on 26 June 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 21st July 2017

Costs application in relation to Appeal Ref: APP/Q1445/W/17/3171883 Land at Roedean Path, Roedean, Brighton BN2 5RP

- 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 Stephen and Jacky Rowllins for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for erection of a single new detached house with associated private garden and on-site parking space.
-

Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) 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. The appellants' claim for costs relates primarily to the way in which the Council dealt with pre-application advice and then determined the application under delegated powers, rather than submitting it to the Planning Committee for determination by Members. However, issues relating to the Council's procedures and scheme of delegation are not matters before me, which are confined to considering whether or not the Council has acted unreasonably during the appeal process.
4. Officers had also recommended that the revised scheme, BH2016/06251, should be refused. However, on that occasion the decision was referred to the Committee who granted planning permission. The appellants therefore appear to believe that Members would have granted permission for the scheme before me had they been given the opportunity to do so.
5. Regardless of whether or not the appeal scheme should have been submitted to the planning committee for determination, the officer's report on the appeal scheme sets out clearly why, in their view, the scheme should have been refused. The Council therefore had sound planning reasons for determining the application on the basis of its officer's assessment.
6. Although the revised scheme was approved by Members, the Council has continued to support its reasons for refusing the original scheme during the appeal process. Its submitted statement included identifying the differences between the approved and refused schemes, thereby demonstrating the additional harm that it considered would be caused by the larger proposal.

7. Having secured permission for the revised scheme the appellants had a choice. They could either implement the permission for the smaller, amended scheme or pursue the appeal in the hope of securing a different outcome on their original proposal. In deciding to initiate the appeal, they did not, therefore, incur unnecessary or wasted expense.
8. I have looked at the scheme afresh, taking account of the fact that there is now permission for a single dwelling on the site, and concluded that the scheme is unacceptable.
9. I therefore do not consider that the Council acted unreasonably in refusing the application or failed to present sufficient evidence to substantiate its reasons for doing so.

Conclusion

10. I find that unreasonable behaviour, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Sheila Holden

INSPECTOR