



Costs Decision

Site visit made on 3 December 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Costs application in relation to Appeal Ref: APP/Q1445/D/19/3238150 2 Dyke Close, Hove BN3 6DB

- 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 P Papanichola for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for 2 storey rear extension, attic conversion and part basement with external terrace and lap pool.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses, but that where a party has behaved unreasonably, and 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 (Paragraph: 028 Reference ID: 16-028-20140306).
3. The appellant's claim concerns items listed in the Guidance under the heading '*what type of behaviour may give rise to a substantive award against a local planning authority?*'. In particular; preventing or delaying development which should clearly be permitted having regard to its accordance with the Development Plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis (Paragraph: 049 Reference ID: 16-049-20140306).
4. A sunlight and daylight analysis was submitted in accordance with the Supplementary Planning Document and Policy QD14, which concluded that the scheme was in accordance with BRE guidelines. However, as set out in the accompanying Appeal Decision, that appears to have been a desk-top study based on supplied drawings and they failed to acknowledge an extant permission for a habitable room and rear facing glazing.
5. The Reason for Refusal was not confined to matters of sunlight and daylight, stating that the proposal would represent an overbearing structure to numbers 1 and 3 Dyke Close. This is backed by Policy QD14 which refers to outlook while the Supplementary Planning Document seeks to avoid exacerbating problems of a general sense of enclosure. The inclusion of number 3 in this

concern is important as that dwelling being to the south would not experience any material change to daylight and sunlight, and that fact is acknowledged in the Reason for Refusal only referring to number 1 in that issue.

6. The analysis of the effect on outlook and a sense of enclosure and whether planning harm results is a matter for judgement and the Council have exercised that judgement in a reasonable manner, in accordance with the requirement of the Development Plan and the Supplementary Planning Document. That behaviour is allowed for in the Guidance under the heading '*When might an award of costs not be made against a local planning authority?*' (Paragraph: 050 Reference ID: 16-050-20140306).
7. There is doubt over the intention to fully implement the rear glazing to the extension at number 1 and what was seen at the site inspection was a new blank rear wall. However, as made clear in the accompanying Appeal Decision, the failings with regard to outlook and a sense of enclosure to number 1 are sufficient to dismiss the appeal, and the Council's objections to the proposal on those ground are reasonable and would have led to the need for the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated

S J Papworth

INSPECTOR