
Costs Decision

Site visit made on 2 July 2020

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Decision date: 20 July 2020

Costs application in relation to Appeal Ref: APP/Q1445/W/20/3246606 1A South Street, Portslade BN41 2LE

- 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 & Mrs Harding for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for a two storey side extension to form a new one bed maisonette, retention of existing first floor flat and ground floor shop unit.
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Decision

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

The submissions for Mr & Mrs Harding

2. The costs application seeks a full award of costs principally on the grounds that the Council's refusal was unreasonable because the size of the proposed dwelling is acceptable. It also refers to the Council's "implied" application of the tilted balance in its assessment of the scheme.

The response by Brighton & Hove City Council

3. In response the Council reiterated its view that the size of the dwelling is unacceptable and breaches guidelines for dwelling sizes. The Council does not consider that the external space is insufficient, but that the lack of a division of the rear garden between the patio and the potential vehicle parking area would result in a poor quality external amenity space.

Reasons

4. 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.
5. In the circumstances, I do not consider that it was unreasonable of the Council to refuse the application because of the limited size of the unit, its awkward layout and limited circulation space at first floor level, and so would provide a cramped and inadequate standard of accommodation for future occupiers. For the reasons set out in my decision I have come to similar conclusions. However, I have come to a different judgement about the adequacy of private amenity space. But it was not unreasonable for the Council to exercise its judgement in the way that it did on the subjective matter of the adequacy of

private and usable amenity space. The Council did not prevent or delay development that should have been permitted having regard to the development plan, the National Planning Policy Framework (NPPF) and material considerations.

6. The Council's report refers to the then most recent land supply position published in the 2018 SHLAA Update (February 2019), which showed a 4.5 years supply assuming a 20% buffer as per NPPF paragraph 73 given the significant under delivery of housing over the previous three years. The report concluded that the adverse impacts would significantly and demonstrably outweigh the benefits of providing a new one bedroom dwelling, when assessed against the policies in the NPPF taken as a whole. This clearly indicates that in determining the application the Council acknowledged that it could not demonstrate a 5-year housing land supply and accordingly applied the appropriate tilted planning balance.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Woolcock
Inspector