

Costs Decision

Site visit made on 26 February 2021

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021.

Costs application in relation to Appeal Ref: APP/Q1445/W/20/3260803 Land at 136 Ladysmith Road, Brighton BN2 4EG

- 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 Ms Alison Williamson for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of an application for planning permission for a change of use from a single dwelling (Use Class C3) to a 3-bedroom House in Multiple Occupation (HMO) (Use Class C4).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include:
 - 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.
4. The claimant submits that the application was not contrary to any technical criteria, was compliant with the relevant policies and should have been approved. The costs claim further argues that the Council's assertion that the proposal would be harmful to neighbours due to traffic, parking, noise and

waste was unfounded and unevidenced, contrary to the appellant's analysis and that of the Council's planning and transport officers.

5. Although the application was recommended for approval by officers, it is the Planning Committee's role to assess the application and make the decision. The Committee can very properly disagree with the Council officers, so long as it has sound planning reasons for doing so. In this case, however, the Council has not put forward any specific or convincing evidence that this proposal would cause significant problems within the local area.
6. No evidence was submitted in regard to the existence of significant traffic, parking, noise or waste issues on Ladysmith Road, or of an over-concentration of Houses in Multiple Occupation in the vicinity of the appeal site. The Council has instead relied on vague assertions about the proposal's impact on the character and quality of the area. As a result, development has been delayed unreasonably and the appellant has had to resort to the appeal process, incurring costs in the employment of a professional agent.
7. The appellant has also claimed costs on the basis of alleged faults in the Committee proceedings, but I find nothing that appears to have been unreasonable or otherwise out of order in this regard. It appears that the Committee followed its adopted procedures.
8. Nevertheless, for the reasons set out above I find that the Council's action in regard to the substance of the case amounts to unreasonable behaviour resulting in unnecessary and wasted expense as described in the PPG, so that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Brighton & Hove City Council shall pay to Ms Alison Williamson, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Brighton & Hove City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Les Greenwood

INSPECTOR