

Costs Decision

Site visit made on 19 May & 21 July 2022

by Martin Andrews BSc(Econ) MA(Planning) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Costs application in relation to Appeal Ref: APP/Q1445/W/21/3281282 40 Heath Hill Avenue, Brighton BN2 4FH

- 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 Belinda Coote for a full award of costs against Brighton and Hove City Council.
 - The appeal was made against the refusal of planning permission for a change of use from the existing dwelling (C3) to a 4 No. bedroom small house in multiple occupation (C4).
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Decision

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

Reasons

2. The Planning Practice Guidance first published by the Government in March 2014 and subsequently updated online explains that costs will normally be awarded when unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The thrust of the appellant's claim for the Council's alleged unreasonable behaviour is that the Council failed to engage with her in a timely, thorough and appropriate manner having regard to the issues arising from the application. The cumulative effect of these shortcomings is considered to have been prejudicial to the fair and open processing of the application. The Council is also considered to have wrongly applied its policies, albeit not in the way that I have referred to in my Decision. All these matters can be summed up as the appellant considering she has been unfairly treated in the Council's handling of the application.
 4. Whilst I have noted these points and have some sympathy with at least some of them, I can only give limited weight to the appellant's submissions for an award of costs. This is because to a material extent the matters raised are not based on a sufficient cognisance of the correct planning application and appeal procedures and indeed the costs application procedure itself. An example of this is the appellant's document dated 18 August 2021 which made the costs application '*under Consumer Law for Misrepresentation*' and stated that the claim is for £500 '*if the appeal is unsuccessful*', (reimbursement of the application fee plus expenses). None of these matters are directly relevant to my adjudication of the merits of an appeal costs application.
 5. On balance I am also satisfied that whilst I have disagreed with the Council's interpretation of its policies on the first issue and its planning judgement on the second, the other specific points raised by the appellant on the two refusal
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reasons in support of her case do not amount to what could reasonably be described as intentional unfairness by Council officers towards the appellant.

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

7. The application for an award of costs is accordingly refused.

Martin Andrews

INSPECTOR