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## Costs Decision

Site visit made on 9 September 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 06 October 2025

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### **Costs application in relation to Appeal A Ref: APP/Q1445/W/24/3357338**

#### **132 Kings Road, Brighton, BN1 2HH**

- 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 Giuseppe Cardillo-Zallo, Rapido Services Limited for a full award of costs against Brighton and Hove City Council.
  - The appeal was against the refusal of planning permission for the erection of an additional storey to create 1no two bedroom flat (C3) with front roof terrace and stone balustrade. Installation of a new lift and stairwell. Revised fenestration to front and rear elevation.
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### **Costs application in relation to Appeal B Ref: APP/Q1445/Y/24/3357340**

#### **132 Kings Road, Brighton, BN1 2HH**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Giuseppe Cardillo-Zallo, Rapido Services Limited for a full award of costs against Brighton and Hove City Council.
  - The appeal was against the refusal of listed building consent for the erection of an additional storey to create 1no two bedroom flat (C3) with front roof terrace and stone balustrade. Installation of a new lift and stairwell. Revised fenestration to front and rear elevation.
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## **Decision**

1. In relation to Appeal A: The application for an award of costs is refused.
2. In relation to Appeal B: The application for an award of costs is refused.

## **Reasons**

3. Parties in planning appeals normally meet their own expenses. However, 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.
4. In relation to both appeals, the applicant suggests that the appeals should not have been necessary as the proposal was recommended for approval by officers and followed largely positive pre-application advice. Furthermore, it is suggested that the Council failed to adequately justify and support the Committee's reasons for refusal and the appellant has been put to the unnecessary expense of an appeal and caused delay to the proposal.
5. In the planning application, the applicant mentions that in the first reason for refusal no particular windows are identified, and no technical support or evidence was given to contradict the officer's conclusions, and the refusal reason is therefore vague and unjustified. It is suggested that the Councillors should have deferred the

- application to seek a technical assessment which the applicant would have been willing to do and subsequently had to commission because of the refusal.
6. In relation to heritage impact, the applicant considers that the Committee determined that there would be heritage harm without any technical basis and did not take full account of the positive benefits of the proposal. The applicant suggests that the Committee focussed on a lack of consultation with residents rather than any detailed debate or justification for the reasons for refusal.
  7. The applicant points out that listed building consent was sought purely to deal with minor flashing details to the adjoining listed building and to avoid doubt as to whether consent was or was not required. The applicant states that the Council offered no clarification over what harm would occur because of these works. It is suggested that the Committee refused listed building consent simply because they had refused the planning permission, and without any justified reasoning.
  8. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and to provide clear evidence to substantiate that reasoning.
  9. In relation to the planning application, Committee Members did not appear to clearly identify the windows likely to be detrimentally affected by the proposal or to fully articulate their concerns. However, the proposal would increase the height of the building and the officer mentioned that there would be an impact on sunlight to some eastern facing windows at Astra Court, specifically on the second floor. The officer concluded that the impact on daylight/sunlight would be minimal and would not cause significant harm to living conditions nor warrant refusal of the application. Nevertheless, given these observations, and concerns raised by neighbouring residents regarding a loss of light, it was not unreasonable for Members to reach a different view to the officer. Furthermore, the daylight and sunlight assessment subsequently submitted, identified a degree of impact to several windows at Astra Court and although it was considered that this would be within an acceptable range it suggests to me that Members had grounds for concern.
  10. Given the proximity of the nearby residential properties and the nature of the proposal, it would have been helpful for a sunlight and daylight assessment to have been submitted with the application. Deferring the scheme at Committee to seek this assessment may not have been appropriate given their other concerns. I therefore consider that there were sufficient grounds for the reason for refusal, the policy conflict was clearly identified, and the subsequent submission of the assessment was not an unreasonable cost.
  11. Council officers found the proposal acceptable in design and heritage terms, which took account of pre-application advice, and they noted the positive aspects of the scheme. The Georgian Group, a statutory consultee on heritage, provided a detailed objection. Despite this body also considering the positive aspects of the proposal, it recommended that the application be withdrawn. The local Conservation Advisory Group also objected to the proposal. Even though the debate at the Committee was not especially helpful, the clear objections from external heritage bodies, including a statutory consultee, appear sufficient grounds for the Council's decision. The reason for refusal was clear, precise and identified the relevant policies.

12. Although it appears that the Council had no concerns with the submitted flashing details relating to the listed building consent application, it appears to me that the Council refused this consent as permission for the extension had already been refused. The flashing detail was therefore not relevant.
13. Accordingly, there are reasonable grounds to conclude that overall, the Council properly evaluated the applications and considered the merits of the scheme, and therefore the appeals could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decisions. The appellant had to address those concerns and the evidence of third parties in any event.
14. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, in relation to each appeal, an award for costs is not justified.

*G Bayliss*

INSPECTOR