



Costs Decision

Site visit made on 25 February 2013

by David Prentis BA BPI MRTPI

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

Decision date: 7 March 2013

Costs application in relation to Appeal Ref: APP/Q1445/A/12/2184704 Flat 3, 5 Preston Park Avenue, Brighton BN1 6HJ

- 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 D Golding for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for: *Conversion of existing first and second floor maisonette to form 2 no. self contained flats and installation of rooflights to front and rear elevations.*
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Decision

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

Reasons

2. In summary, the application for costs is made on the basis that: (1) the applicant did not have the option of locating the proposed cycle/bin store to the rear or side of the property; (2) most of the properties in the street do not have bin stores and wheelie bins are kept in the open; and (3) Policy TR14 of the Brighton and Hove Local Plan 2005 offers an alternative to on-site cycle storage by making a contribution to off-site provision – the Council did not offer this option and an otherwise acceptable scheme was refused. The Council's response is that the decision was properly made in accordance with the relevant policies.
3. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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 my appeal decision I have noted that the applicant does not have the option of locating the store to the side of the property and that there are many bins kept in the open along Preston Park Avenue. However, I have concluded that these factors are not sound reasons for allowing a permanent structure which would be harmful to the character and appearance of the conservation area.
5. I note that Policy TR14 states that, where the need for cycle parking cannot be met on site, the Council will negotiate for the provision of cycle parking facilities nearby or for a contribution to cycling infrastructure. I am not able to say whether a financial contribution would be appropriate in this case because I have little evidence on this matter. Nevertheless, I have some sympathy for the applicant's position because there is nothing before me which indicates that the Council has even considered this option. The National Planning Policy

Framework encourages planning authorities to look for solutions and to seek to approve applications for sustainable development where possible. That does not seem to have happened in this case and it appears to me that the Council's approach fell short of best practice. On the other hand, I do not think the ultimate decision was unreasonable. The Council's objection to the appeal scheme was that the cycle/bin store would be harmful to the conservation area. For the reasons given in my appeal decision, I agree with that assessment.

6. I conclude that the conditions for an award of costs have not been met and that the application should not be allowed.

David Prentis

Inspector