



Costs Decision

Site visit made on 3 April 2013

by John D Allan BA(Hons) BTP MRTPI

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

Decision date: 11 April 2013

Costs application in relation to Appeal Ref: APP/Q1445/D/13/2190983 Land at 19 Elvin Crescent, Rottingdean, Brighton BN2 7FF

- 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 Paul & Donna Stevenson for a full award of costs against Brighton & Hove City Council.
 - The appeal was made against the refusal of planning permission for first floor roof extension.
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Decision

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

Reasons

2. 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.
 3. The applicants argue that the Council's decision was unreasonably delayed. Whilst I note that the planning application was not determined within the statutory 8 week period the decision was issued just a short time later. There is nothing to suggest that this minor delay had any influence upon the decision that was taken, which involved matters of judgement relating to the impact of the development upon the character and appearance of the area.
 4. The Council's decision was adequately framed and properly supported by 3 relevant policies of the Brighton & Hove Local Plan 2005, all of which refer to design criteria and key principles. It was also based upon an adopted Supplementary Planning Guidance Note 1 entitled *Roof Alterations & Extensions*, which gives clear guidance on such matters, including situations where other roof alterations may already exist within otherwise uniform groups of dwellings.
 5. The applicants have further argued that the Council failed to properly take account of changing circumstances, particularly with regard to other decisions that had been taken for, what they consider to be, similar proposals within the area. However, in my decision on the appeal I have found that there is no
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clearly identified link between the current proposal and the circumstances of the 2 specific cases upon which the applicants rely. Indeed, the Council's officer's report directly deals with the case at 25 Elvin Crescent (LPA Ref BH2012/01256). With regard to the second example, this relates to an appeal decision (PINS Ref APP/Q1445/D/12/2181595) for a property in a different street. I therefore find it unsurprising that the Council did not refer to it in their deliberations on the planning application.

6. Based on my conclusions in relation to the appeal the Council did not prevent or delay development which should clearly have been permitted having regard to the development plan, national policy and all other material considerations.
7. Overall therefore I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

John D Allan

INSPECTOR