



Costs Decision

Site visit made on 14 August 2013

by Ray Wright BA(Hons) DipTP MRTPI

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

Decision date: 9 September 2013

Costs application in relation to Appeal Ref: APP/Q1445/A/13/2196206 Land to the west of 42 Falmer Gardens, Woodingdean, Brighton BN2 6NE

- 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 Clive Stillman for a full award of costs against Brighton and Hove City Council.
 - The appeal was made against the refusal of planning permission for a 'new detached house with off road parking.'
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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. This application for costs is made on the basis that the Council's planning committee refused the planning application, the subject of this appeal, contrary to their officer's recommendation and without valid reason.
 4. However, Paragraph B20 of Circular 03/09 makes it clear that planning authorities are not bound to accept the recommendations of their officers, although if that advice is not followed, they will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support their decision. Paragraph B16 also makes it clear that planning authorities are expected to produce evidence at the appeal stage to substantiate each reason for refusal, with reference to the development plan and all other material considerations, the key test being whether the evidence produced provides a respectable basis for the authority's stance.
 5. The Council in this case relied on the decision notice, minutes of the meeting and a separate appeal statement to explain the concerns expressed by, and reasoning of, members of the Committee in coming to a different view to that recommended by officers. This was done with reference to relevant policies in the Brighton and Hove Local Plan 2005 (LP).
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6. The appellant also refers to paragraph B59 of the Circular. As highlighted by the Council this in fact should be a reference to paragraph B29, which relates to authorities ignoring National Policy. However, the Council's report refers to the National Planning Policy Framework (Framework) and the policies in the LP relevant to this appeal remain broadly in accordance with the Framework.
7. This appeal involved one main issue relating to the effect of the development on the character and appearance of the area which involves a matter of judgement, and in such cases it is inevitable that opinions will vary. Paragraph B18 of the Circular notes that where the outcome of an appeal turns on the assessment of such issues it will be unlikely that costs will be awarded if realistic and specific evidence is provided. I note the appellant strongly disagrees with the Councillors' judgement and subsequent decision. However in this case, I consider that the Council, through the documents set out above, did provide sufficient information to support its assessment and decision, which were appropriately linked to their adopted policies.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

Ray Wright

INSPECTOR