



Costs Decision

Site visit made on 4 February 2015

by **S Emerson BSc DipTP MRTPI**

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

Decision date: 13 February 2015

Costs application in relation to Appeal Ref: APP/Q1445/A/14/2220057 18 Wellington Road, Brighton BN2 3BG.

- 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 Mrs N Blencowe for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of the Council for planning permission for the erection of 31 flats.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The appellant applies for costs on 4 grounds. She considers that the Council has unreasonably pursued protection of an abandoned use – namely the community use of the building which ceased 10 years ago. The appellant considers that the submitted marketing evidence demonstrates that there is no demand for a community use on the site. I have addressed the merits of this issue in my appeal decision. I have found some conflict with a relevant local plan policy on this matter, but no material harm for the reasons I give. The appellant's marketing evidence was not conclusive on this issue. I do not regard the Council's refusal on this point as unreasonable.
4. The appellant alleges a lack of communication from the Council immediately prior to the application being first reported to the Planning Committee with a recommendation for refusal, which prevented the appellant amending plans to overcome most of the reasons for refusal. Even if there was a lack of communication at this stage, I do not understand how this significantly disadvantaged the appellant. The appellant speedily submitted amended plans once the Committee report had been published, triggering the report being withdrawn from the intended committee and all parties being re-consulted. Apart from the illustrative plan of wheelchair accessible units on the ground floor submitted at the final comments stage of the appeal, the appellant has not submitted any subsequent amended plans addressing the reasons for refusal. I see no justification in this ground.

5. The Council's committee report did not apply the test set out in paragraph 14 of the National Planning policy Framework. The Council states that this was because at the time it did not consider that it lacked a 5 year housing supply. I do not have the evidence to conclude whether that was a reasonable position to take at the time. But in any case, having applied paragraph 14 in the overall balancing exercise at the end of my decision, I have concluded that the appeal should be dismissed.
6. The appellant alleges that the Council has been inconsistent in refusing this scheme when it previously granted planning permission for the 26 unit scheme, which would have some of the same disadvantages as the Council considers applies to the present scheme. I see nothing unreasonable in the Council seeing particular benefits in the scheme for accommodating people with learning and physical disabilities and providing a day room, particularly as that scheme was designed in conjunction with the City's social services to meet specific needs identified at the time. Those benefits and designation of part of the appeal site as open space in the emerging City Plan are sufficient to explain the different decisions made by the Council on the 2 schemes.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Simon Emerson

Inspector