

Costs Decision

Site visit made on 12 July 2016

by **Andrew Steen BA (Hons) DipTP MRTPI**

Decision date: 03 August 2016

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3147094 9 Fairlight Place, Brighton, East Sussex BN2 3AH

- 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 Patrick Spiers of DataFast Limited for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use from class C3 (dwelling house) to mixed class C3/C4 (dwelling house/house in multiple occupation).
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Decision

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

Reasons

2. The national Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and also caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The appellant alleges that the Council did not determine the application in a timely manner, at least partly due to problems with the neighbour consultation process, and that this was unreasonable. I understand that this has had an impact on planning the letting of the property that is currently let to students as the property would no longer be available to that market should planning permission be refused. An earlier decision on the application would have given more certainty as to whom the property could be marketed once the existing tenants have left.
 4. I accept that this was a relatively straightforward application that the Council should have determined sooner. The National Planning Policy Framework (the Framework) confirms that Councils should approve development proposals that accord with the development plan without delay.
 5. As set out in my main decision, the Brighton & Hove City Plan Part One (CP) was adopted during the course of the appeal, including Policy CP21 that was quoted in the reason for refusal. It is not clear to me what stage the CP was at on submission of the application. However, it would have carried some weight and, given the Council's decision on the earlier case referred to by the
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- appellant¹, I believe the Council would have determined to refuse the planning application for the reason given within the Council's draft report.
6. I note that the appellant considers the Council have not substantiated their claim that houses in multiple occupation cause harm to the living conditions of neighbouring occupiers. However, for the reasons given in my main decision, I consider that the evidence presented is sufficient to demonstrate harm to those living conditions. I note that other policies encourage provision of high quality student accommodation, but relevant policies in combination seek to balance that provision with the living conditions of other residents.
 7. The Council have sought road improvements as part of the development. Whilst I do not accept they are necessary or relevant to the development to be permitted, I do not consider that the request was unreasonable behaviour that led to unnecessary or wasted expense in the appeal process.
 8. Whilst the Council has noted the sloping ceilings in the room within the roofspace, they have concluded that rooms within the dwelling provide adequate living conditions for occupiers of the dwelling. I note that there were limited objections to the development and that a licence has been granted for use of the building as a house in multiple occupation. The licencing system is separate from the planning system and it is not unreasonable for a Council to come to a decision independent of such licences. I consider that the Council have provided fair and balanced evidence in support of their case in the appeal.
 9. For the reasons set out above I therefore find that, although the planning application was not determined in a timely manner, planning permission would have been refused such that an appeal would have been necessary and, as such, this did not result in unnecessary or wasted expense in the appeal process as described in the PPG. As such, the application for an award of costs must fail.

Andrew Steen

INSPECTOR

¹ Appeal reference APP/Q1445/A/14/2213817