



Costs Decision

Site visit made on 11 August 2015

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 17 September 2015

Costs application in relation to Appeal Ref: APP/Q1445/W/15/3009190 Toby Inn, Cowley Drive, Brighton BN2 6WD

- 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 Tim Martin (Tim Martin Interiors Limited) for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the refusal of planning permission for a change of use from A4 drinking establishment to sui generis temporary accommodation together with associated conversion works.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. As detailed in my appeal decision I have found that the proposed scheme conflicts with a strict interpretation of Policy HO20 of the Brighton and Hove Local Plan (LP) 2005, but that other material considerations justify its approval. However, this does not mean that the Council acted unreasonably in deciding that other factors, including the acceptance that new residential development would not be viable, did not warrant approval of the planning application, bearing in mind its conflict with the adopted development plan.
4. In coming to its decision, the Council explained the reasons for the proposal being in conflict with Policy HO20, concluding that it would not be capable of being the main residence of people staying or provide permanent accommodation. The Council's position on the significant need for housing within the City was clearly explained, objective and based on both existing development plan policy and evidence produced for the emerging Brighton and Hove City Plan. The Council therefore acted reasonably in this respect.
5. The applicant refers to the previous decisions of the Council and that the Council case officer had changed their position since then. Authorities are not bound to accept the recommendations of officers, but if professional or technical advice is not followed, then reasonable planning grounds for taking a contrary decision need to be supported by relevant evidence which I consider the Council have demonstrated in this case. The previous formal decision of the Council was also a significant factor in the conclusions of the case officer. Whilst I appreciate the applicant's frustration at this it is evident that the case

officer reached the decision on the scheme before me having considered all the relevant circumstances of the application, including the pertinent policies of the development plan, other material considerations as well as the Council's formal decision for the previous application. These matters are clearly set out in the officer's report. I therefore find that the Council have not behaved unreasonably in this regard.

6. In respect of the matter of the Council's requirement for a Section 106 (S106) planning obligation to secure transport contributions, I have found that in the circumstances before me, the absence of a planning obligation does not weigh against the development. The S106 obligation is referred to in the officer's report and the Council have not behaved inconsistently in referring to it within their appeal statement. In this circumstance I consider the Council has not acted unreasonable and additionally there is no evidence that the applicant has incurred unnecessary expense in relation to this matter.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. For the reasons given above I refuse an application for an award of costs.

L Gibbons

INSPECTOR