The Planning Inspectorate

Costs Decision

Site visit made on 9 November 2010

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 16 December 2010

Costs application in relation to Appeal Ref: APP/Y3805/A/10/2124426
1 Freshbrook Road, Lancing, BN15 8DA

- 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 Paul Meredith for a full award of costs against Adur District Council.
- The appeal was against the refusal of planning permission for demolition of an existing building to be replaced with a new development of 6 No. 1 bedroom flats with garaging for 6 No cars and storage under.

Decision

1. The application fails and no award of costs is made.

Reasons

2. I have considered this application for costs in the light of Circular 03/2009: *Costs Awards in Appeals and Other Planning Proceedings* (the Circular) and all the relevant circumstances. The Circular makes it clear that an award of costs does not necessarily follow the outcome of the appeal. Costs are normally awarded when the party against whom the award is sought has behaved unreasonably, and the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. Para B15 of the Circular states that planning authorities are at risk of an award of costs if they prevent or delay development which should have been clearly permitted. Para B16 of the Circular requires authorities to give clear evidence why the development should not be permitted. Para 18 advises that matters of judgement concerning character and appearance should be based on realistic and specific evidence.

4. Para B20 states that planning authorities are not bound to accept the recommendations of their officers. However, they must show reasonable planning grounds for taking a contrary view.

5. In the case for reason for refusal 01, the Committee was entitled reach its own judgement as to whether the proposed building would be sympathetic with the character and appearance of the area and the decision notice and statement explained with reasonable clarity that the Committee considered that the development was out of scale with its surroundings.

6. Reason for refusal 01 was less clear on the exact reasons why the residential accommodation would be of an unsatisfactory standard. However, the

committee report referred to draft internal standards and these were explained in detail by the Council's Statement. The committee report also stated that, on a numerical basis, the total of external space complied with a minimum standard but it also pointed out that these were in three areas. The Committee were entitled to judge that the quality of the spaces was more important than the numerical calculation, as explained in the Council's Statement.

7. The effect on the adjacent occupier at 25A Freshbrook Road was described in some detail in the officer's report and the decision notice, although it did not refer to 25A specifically, it did state "the adjoining dwelling". The report made it clear that the recommendation was "on balance" to approve and the decision of the Committee to reach a different conclusion is a question of judgement, which it is entitled to make.

8. I conclude that the decision reached by the Council was justified and reasonable, in accordance with Paras B15, B16, B18 and B20 of the Circular, and that the Council has therefore behaved reasonably and has not caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Jacqueline Wilkinson

INSPECTOR