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## Costs Decisions

Hearing Held on 20 February 2018

Site visit made on 20 February 2018

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

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

**Decision date: 05 July 2018**

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### **Costs application in relation to Appeal Ref: APP/C3810/W/17/3178817 Regis Centre, Belmont Street, Bognor Regis PO21 1BL**

- 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 Thomas Elliott (Sir Richard Hotham Project Ltd) for a full award of costs against Arun District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the redevelopment of the Bognor Regis Centre to provide 6358 sqm of commercial space (including leisure facilities) for mixed development, 64 room hotel, 192 apartments with the provision of 30% Affordable housing units compliant with policy. Car parking, creation of a new board walk and conversion of Place St Maur des Fosse into a Plaza, soft and hard landscaping. Redevelopment of the Hothampton car park to provide a 1100 seat theatre, with a 48 bed hotel and conference facilities, the provision of 2 retail units facing onto the Queensway, relocation of children's play area and upgrading of the facility, plus hard and soft landscaping. Redevelopment of the Esplanade Theatre site to provide a 200 cover Destination Restaurant and relocation and upgrade of the existing skate park to adjacent to the Pier. Provision of 3 new kiosks along the Promenade to provide retail, toilets and showers. This application is a resubmission of BR/26/15/PL. This application affects the setting of a Listed Building and may affect the character and appearance of The Steyne Conservation Area.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **The submissions for the applicant**

2. The application was made in writing.

### **The response by the Council**

3. The response was made in writing.

### **Final response by the applicant**

4. The following additional points were made. That there was no justification for the Council's reasons for refusal. The relevant points from the Planning Practice Guidance relate to preventing or delaying development which is in accordance with the development plan, failure to produce evidence (including the fact that it was very difficult to get details on the points made by the Council), vague or generalised assertions, matters which could be dealt with by conditions, the requirement to enter into a planning obligation does not accord with law or planning policy, and not reviewing the case as part of sensible case management. That the Council have failed in all these respects, the evidence

failed to support their case about the proposals impact. That the evidence supported the case of the appellant but Members still chose to disagree. There was not an objective analysis.

## **Reasons**

5. 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.
6. As set out in my appeal decision I have found that the proposed scheme would represent design excellence. The planning application was the subject of a Planning Performance Agreement, and the applicant had made changes to the scheme, including the design of the buildings as a result of a number of reasons for refusal for a previous planning application. As part of the planning application, the Council met with the Design South East to discuss the proposals. The appellant was not in attendance at this meeting to explain their position, and I can understand their concerns that there may have been an unbalanced consideration by DSE of the scheme. Nevertheless, an Advice Note was issued by DSE and was before the Development Control Committee held on 1 February 2017.
7. I recognise that the effect of a development on the character and appearance of the area is primarily a matter of judgement. The Development Control Committee Minutes do refer to concerns about design albeit these may have been influenced by the DSE note. Nevertheless, this was a consideration that Members were entitled to pay due regard to. Although the officer's recommendation was to approve the scheme it does include some concerns about design elements of the scheme. The reason for refusal refers to the development plan. Additional information about the concerns over the design of the scheme was provided within the Council's statement, and which were reiterated at the Hearing. I consider the Council adequately justified their position with regard to design. In this regard therefore, I consider the Council did not behave unreasonably.
8. The first reason for refusal relates to parking provision for the scheme and its effect of the wider role of the town as a tourist destination. I have found that the scheme would provide sufficient parking both for the development and for the town. A Transport Assessment was submitted with the planning application, which was undertaken in accordance with requirements and data sources set out by the Highway Authority.
9. The Council raised concerns about the loss of parking spaces. However, the scheme would increase public parking spaces, and this is referred to in the officer's report. Although the Highway Authority response to the planning application refers to a shortfall in parking demand, it clearly goes on to explain that the timing of peak demand for residential and visitor parking would provide for reasonable alternatives for public parking. The Highway Authority did not object to the proposal.
10. Although some mistakes in the figures by the applicant were referred to, this would not have amounted to objective information or evidence amounting to a negative effect on parking. The Council's statement does not provide any information other than reiterating the Highway Authority's sentence as set out

above and that the debate at Council concentrated on the loss of parking spaces. No other information was provided to justify the Council's reason for refusal. With this matter, the Council behaved unreasonably.

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a partial award of costs is justified.

*L Gibbons*

INSPECTOR

**Costs Order**

12. In the exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Arun District Council shall pay to Mr Thomas Elliott (Sir Richard Hotham Project Ltd), the costs of the appeal relating to reason for refusal 1, such costs to be assessed in the Senior Courts Office if not agreed.
13. The applicant is now invited to submit to Arun District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.