
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

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 Arun District Council for a full award of costs against Mr Thomas Elliott (Sir Richard Hotham Project Ltd).
 - 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 refused.

The submissions for the Council

2. The application was made in writing.

The response by Mr Elliott

3. The response was made in writing.

Reasons

4. 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.

5. The Council refer to the appellant's behaviour as being unreasonable due to the inability for the appellant to deliver the local infrastructure contributions through an agreement under section 106 of the Town and Country Planning Act 1990 (as amended). As set out in my appeal decision, a number of local infrastructure contributions would be necessary, related directly to the development and fairly related in scale and kind and the requirements in accordance with the development plan.
6. I accept that the regeneration of major town centre sites has been a consideration for the Council for a significant number of years. Nevertheless, there has been a lack of progress with the redevelopment of the key sites at the Regis Centre and the Hothamton car park. The Council commissioned further feasibility work in order to consider options for the key sites, and it was this process which ultimately led to the Council deciding not to sign the s106 agreement with the applicant. From the evidence before me, and discussions at the Hearing it is not clear when the Council is likely to determine moving forward on their schemes for the sites.
7. The appellant proposed a condition that refers to limiting the occupation of the flats on the Regis Centre site until a scheme or section 106 obligation has been entered into by the landowner, which would include financial contributions. As set out in my decision I have found that the suggested condition would meet the six tests set out in the National Planning Policy Framework and the requirements of the Planning Practice Guidance. There was no evidence to indicate that there is no prospect of the Council entering into a s106 agreement. Therefore, provision for infrastructure contributions would be made.
8. The Council had entered into a formal planning performance agreement with the applicant, and significant resources were engaged on both sides. The planning agreement also makes references to landownership issues not fettering the application in any way. The lack of infrastructure contributions was not a reason for refusal, and the matter is not raised in the Council's Appeal Statement. The Development Control Committee Minutes for the meeting on 1 February 2017 states that the initial s106 agreement between the parties was in line with the requirements. Having regard to these factors, and the discussions at the Hearing, I consider that the appellant was not at fault for pursuing the appeal or the alternatives of suggesting conditions to deal with a number of s106 agreement matters.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated.

L Gibbons

INSPECTOR