



Costs Decision

Site visit made on 5 February 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021.

**Costs application in relation to Appeal Ref: APP/B1415/W/20/3271630
Hatherley Road Garages, rear of 111 London Road, St Leonards on Sea,
TN37 6LB**

- 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 was made by Mr Convert for a partial award of costs against Hastings Borough Council.
 - The appeal was against the refusal of planning permission for the construction of a first floor flat over existing garages with a garage, entrance hall and utility room, reconfiguration of the ground floor garages including a reduction of the forecourt space to provide more internal space.
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Decision

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

Reasons

2. The Planning Practice Guidance: Appeals (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The application for costs is chiefly made on a procedural basis, as reference is made to the Council's handling of the planning application prior to the lodging of the appeal. The PPG states that costs cannot be claimed for the period during the determination of the planning application, but that all parties are expected to behave reasonably throughout the planning process (paragraph 033). The Council's time to determine the application seems to me to represent an excessively long period to make a decision, but this is not a matter that can in itself lead to an award of costs in this particular appeal: it is apparent to me that, notwithstanding this long period, an appeal would still be necessary as the Council had significant concerns with the proposed scheme. Thus, the appellant would still have been exposed to the costs through the appeal process regardless of when the application would have been determined.
 4. It is, though, further stated in the PPG that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in considering whether or not costs should be awarded. In this regard the appellant has drawn my attention to the inclusion of a reason for refusal
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relating to absence of amenity space, which he considers was a late addition to the refusal. I am informed that the absence of amenity space was also a reason for refusal on a previous application on the same site (ref HS/FA/19/00201) which, although for more dwellings, appears a clear indication that provision of amenity space on the land would be a consideration. The Council determined the application as submitted to them and, in their professional judgement, the matter of amenity space was a concern. Thus, I do not think the Council's action to include a reason for refusal on the basis of amenity space was unreasonable.

5. The appellant proposed to submit an amended drawing showing a roof terrace, but I concur with the Council that such a change would have represented a material change to the scheme that would have required re-consultation in the interests of being fair to neighbouring residents and other consultees. As it is evident the Council had a number of fundamental concerns with the scheme I further think it was reasonable for the Council to not accept that amendment and go through a re-consultation process when they had expressed a clear indication that permission would be refused.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

C J Leigh

INSPECTOR