



## Costs Decision

Site Visit made on 6 April 2021

**by Graham Wyatt BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> August 2021**

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**Appeal Ref: APP/D1590/W/20/3260215**

**Land West of Holiday Inn Hotel and North of Eastwoodbury Crescent,  
Southend Airport, Southend on Sea, SS2 6GH**

- 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 Glyn Jones (London Southend Airport Co. Ltd) for a full award of costs against Southend-on-Sea Borough Council.
  - The appeal was against the refusal of planning permission for a 132 bedroom hotel, with associated access, parking, landscaping and servicing.
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### Decision

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

### Reasons

2. The national Planning Practice Guidance (the Guidance) advises that costs may only 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 appeals process. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance states that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The applicant states that the planning application was the subject of pre-application advice. Whilst this was the case, the advice is not binding upon the Council and meetings with its officers and the content of the pre-application letter do not relate to the appeal process or the planning merits of the appeal. Moreover, this is not a matter that should be pursued through the appeal process as other mechanisms exist to resolve such issues. Thus, an award of costs on this matter is not justified.
4. The committee was not bound to accept the officer recommendation and it is not unreasonable for it to refuse planning permission, contrary to the advice of its professional officers. Whilst the applicant may not agree with the Council's conclusions in these respects, this does not mean that the Council acted unreasonably in its assessment of the scheme. However, this is provided that the Council could show reasonable planning grounds for taking a contrary decision and it is for me to consider whether the decision was reasonable and soundly based.
5. It is clear that despite the evidence submitted in support of the planning application regarding the level of parking available at the site, members of the committee took the view that the objection from the Council's Highway's team had merit and resolved to refuse planning permission. The substantive

reasoning for why the Council consider the proposal to be harmful to parking in the surrounding area is set out in the Council's report to its development management committee.

6. The balance of material considerations in a planning decision is always a matter for the decision-maker and the appeal process offers a route by which legitimate differences of opinion on these matters can be independently scrutinised. In this instance, there is nothing before me to substantiate the concerns raised by Members that the development would not provide adequate staff parking at the airport which would lead to parking on surrounding residential streets. The minutes from the meeting do not provide me with any indication of the debate that took place during the meeting and it is clear from the Council's appeal statement that it is rehearsing similar objections to the development that the Highways Team raised during its consideration of the planning application, without providing counter evidence to support the reason for refusal.
7. The Guidance explains that local planning authorities are at risk of an award of costs where they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. These circumstances apply here and the Council has failed to produce substantive evidence to explain its concerns or counter the evidence provided by the appellant. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that an award of costs on this particular matter alone is justified.
8. Other concerns raised by the applicant concerning the decision-making and conduct of the Development Management Committee are beyond the remit of this application for costs.

### **Costs Order**

9. In exercise of the 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 enabling powers in that behalf, IT IS HEREBY ORDERED that Southend-on-Sea Borough Council shall pay to Mr Glyn Jones (London Southend Airport Co. Ltd), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the reason for refusal relating to highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Southend-on-Sea Borough 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.

*Graham Wyatt*

**INSPECTOR**