

Costs Decision

Site visit made on 14 June 2022

by Sandra Prail MBE, MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 11 July 2022

Costs application in relation to Appeal Ref: APP/B1415/X/22/3290541 Land at 62 Eversfield Place, St Leonards on Sea TN37 6DB

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Febrer for an award of costs against Hastings Borough Council.
 - The appeal was against a refusal of a certificate of lawful use or development for use of the first, second and third floor as a house in multiple occupation.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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 Appellants argue that the Council has acted unreasonably in refusing the application the subject of the appeal as the evidence was clear and unambiguous and no contrary information was received from any source. They say that refusal of the application was contrary to the National Planning Policy Framework regarding the weight to be given to precise and unambiguous evidence.
4. In my substantive decision I do not support the Appellants' appeal. I find that the evidence submitted was not precise and unambiguous for the reasons stated in that decision.
5. The Appellants refer to an email from the Council's Housing Licensing Team dated 14 December 2021 stating that the premises have been licensed as an HMO continuously since 13 July 2006. The onus of proof in the appeal rests firmly on the Appellants and this correspondence was not submitted to the Council as evidence. The Council was under no obligation to consider evidence that was not submitted as part of the Appellants' application.

6. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated. I conclude that the award of costs sought by Mr & Mrs Febrer against Hasting Borough Council is not justified. The application should be refused.

S. Prail

INSPECTOR