

Costs Decision

Site visit made on 9 November 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

**Costs application in relation to Appeal Ref: APP/B1415/W/22/3297705
Land Adjacent to Sussex Road, Sussex Road, St Leonards on Sea, East
Sussex TN38 0BS**

- 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 Lewis & Co Planning for a full award of costs against Hastings Borough Council.
 - The appeal was against a refusal to grant planning permission under section 78 of the Town and Country Planning Act 1990 for the construction of 15 dwellings together with associated parking area.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG states that examples of unreasonable behaviour include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
4. The applicant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason, has failed to substantiate objections, failed to accept amended plans in a timely manner and misread viability information.
5. In this case I have noted the recommendation of the Council's conservation officer. Nevertheless, the Council is not duty bound to follow the advice of its professional officers. The reason for the refusal is clearly set out in the decision notice, is complete, precise, specific and relevant to the application. It also clearly states the policies of the Local Plan which the proposal is considered to conflict with. This reason, in my view, has been adequately substantiated.
6. I accept that the appellant submitted amended plans in respect of the scheme which were not accepted by the Council prior to making its decision. The appellant will note that I nonetheless considered these as part of the appeal, and that this did not overcome the identified harm. I have no reason to conclude that the Council would have come to any other decision if those plans

had been accepted during the course of the original planning application process.

7. In respect of viability, there is a wide divergence between the Council's and appellant's figures. Be that as it may, I have no evidence before me that demonstrates that the Council misread this information so much as disagreed with it.
8. Thus, the application for costs essentially relates to disagreements about legitimate matters of planning judgement. It is evident from the main decision that I have agreed with a number of the Council's reasons for refusal. I am satisfied that the Council's determination of the application and reasoning were credible and that it was entitled to reach the decision it did.
9. Accordingly, whilst I acknowledge the applicant's motivation for applying for an award of costs, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Conclusion

10. I conclude that the application for an award of costs should be refused.

A. Price

INSPECTOR