



Costs Decision

Site visit made on 1 November 2022

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 MARCH 2023

Costs application in relation to Appeal Ref: APP/T1410/W/21/3288059 38A Motcombe Road, Eastbourne, BN21 1QT

- 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 A Knight for a full award of costs against Eastbourne Borough Council.
 - The appeal was against the refusal of planning permission for Redevelopment of site from garages and commercial unit into dwelling houses. Demolition of garages to allow for new three residential units and parking areas. Demolition of existing commercial unit and rebuild to similar footprint and height to accommodate two Flats. Associated site improvements including new access gate from the southwest alleyway.
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Decision

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

Reasons

2. The Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 application sets out that the Council's Committee went against the Planning Officer's report and recommendation that the application be approved. The applicant states that the Committee ignored the consultation response from the East Sussex County Council Highways Officer who raised no objection to the proposals, following the submission of a Transport Technical Note. The applicant contends that the refusal of the application, against the advice of a professional consultee, constitutes unreasonable behaviour.
4. The PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal. In this case, I have noted the recommendation of the Council's Officers and the advice of consultees. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
5. Following the Committee's resolution to refuse the planning application, the Council issued its Decision Notice. That sets out the reasons for refusal, which are complete, precise, specific and relevant to the development proposed, and details the alleged harm and relevant local and national planning policies that Members allege the proposal conflicts with. Although putting forward a contrary case to the Committee Report, the Council's appeal statement subsequently

elaborates on the refusal reasons, the Council's concerns with the appeal proposal and includes reasons why Members went against the recommendation of Officers and the advice of professional consultees. Sufficient detail was therefore provided to substantiate its position.

6. Although I have come to a different overall conclusion and allowed the appeal, this does not mean that the Council acted unreasonably in refusing the planning application. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

B Pattison

INSPECTOR