



Costs Decision

Site visit made on 12 June 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Costs application in relation to Appeal Ref: APP/T1410/C/21/3287430 The Strand Hotel, 35-42 Royal Parade, Eastbourne BN22 7AN

- 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 Ankur Aggarwal on behalf of A.R. Hotels Ltd for a full award of costs against the Eastbourne Borough Council.
 - The appeal was against an enforcement notice alleging "without planning permission, the material change use of the land as an hotel (Class C1) to a use as a hostel (Sui Generis), classed as unauthorised development".
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Decision

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

Reasons

2. The Planning Practice Guidance (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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. In summary, the applicant states that the no attempts were made prior to service to inspect and assess the type of accommodation being offered, to find out who was in occupation, or to find out the likely length of occupation. This resulted in an incorrect allegation stated on the Planning Contravention Notice (PCN). It is further stated that the (wrongful) assumption that the use is in breach of the Council's Tourism Accommodation Policy is not sufficient to demonstrate harm or to enforce. It is claimed that the service of the notice, and this appeal, could and should have been avoided.
4. The Council acknowledge that a site visit was not carried out inspecting inside the premises prior to the notice. However, they state that a complaint was lodged orally and that following the appellant's reply to the PCN they were able to establish that the premises was not being used as tourist accommodation, and that a material change of use had occurred, contrary to Local Plan Policies which aims to protect tourist accommodation in Eastbourne. Correspondence provided to the appellant from the Council also made clear that they would pursue enforcement action if the property did not return to tourist accommodation.

5. The reasons for serving the enforcement notice were precise, specific, and quoted the relevant Local Plan Policies. Indeed, it will be seen from my decision, that I agree with the Council that on the balance of probability a change of use had occurred from a Class C1 hotel to a hostel (*sui generis*) and that this change is material. There has therefore been a breach of planning control. It follows I am satisfied that the Council has not acted unreasonably by serving this notice. Therefore, the applicant has not been put to any unnecessary or wasted expense with dealing with this appeal.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

R Satheesan

INSPECTOR