
Costs Decision

Site visit made on 31 January 2024

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.02.2024

Costs application in relation to Appeal Ref: APP/J2373/W/23/3325263 97 Lytham Road, Blackpool FY1 6DT

- 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 Seaside Hoteliers Ltd for a [partial] [full] award of costs against Blackpool Borough Council.
 - The appeal was against the refusal of planning permission for Change of use, including new ground floor frontage and access alterations, to provide 2 no. self-contained flats for flexible use as permanent residential (C3) or holiday accommodation (Sui Generis).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and failure to produce evidence to substantiate each reason for refusal.
4. The appellant states that the Council has acted unreasonably in relation to their reasons for refusing the proposed development. The appellant considers the scheme to be policy compliant, and that the Council has misapplied their adopted policies in refusing the scheme, indicating that both prior to determination of the planning application and following refusal, the appellant offered the Council the opportunity to change their position and avoid an appeal. This included the sharing of legal opinion in response to the Council's decision. It is also suggested that the Council's level of communication and engagement was poor.
5. The Council's first reason for refusal finds that the proposed holiday accommodation would be of conflicting character to that of the immediate area, undermining wider efforts to establish a more balanced and sustainable neighbourhood. Whether the appeal scheme would be at odds with the

character of the area is a matter of planning judgement. Whilst I have reached a different decision to the Council on this matter, the information and reasoning provided by the Council is not so flawed that it would amount to unreasonable behaviour. The appeal could not have been avoided and the appellant has not incurred unnecessary expense in preparing and submitting evidence in response to this refusal reason.

6. The Council's second reason for refusal finds the location of the proposed use unacceptable because it is not in an area characterised by holiday accommodation uses. The Council's Officer Report, whilst acknowledging the location is within the resort core, highlights that the appeal site is outside any main holiday accommodation area. Correspondence with the appellant dated 16 February states that as the site is located within the defined inner area and outside the main holiday accommodation area, the principle of the proposed holiday accommodation is unacceptable and will not be supported.
7. LP¹ Policy CS21 supports new visitor accommodation focused on the town centre, resort core and defined holiday accommodation areas. The proposed holiday accommodation is within the resort core and therefore it complies with this policy. The Council's approach to differentiating between areas within the resort core and requiring development to be within an area of strong holiday character, goes beyond the requirements of the policy when properly interpreted. Therefore, the Council has acted unreasonably in pursuing this reason for refusal.
8. The appellant has had to prepare and submit evidence in response to the Council's second refusal reason and its associated appeal submissions. As such, the appellant has incurred unnecessary expense.
9. Having considered the correspondence between the main parties both prior to determination and following refusal of the planning application, the Council's level of communication and engagement with the appellant appears to be adequate and so further unreasonable behaviour has not been demonstrated in this respect.

Conclusion

10. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in part, relating to the Council's second refusal reason. Therefore, the application for an award of costs is partially allowed.

Costs Order

11. 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 Blackpool Council shall pay to Seaside Hoteliers Ltd, the costs of the appeal proceedings limited to those costs incurred in respect of preparing for and responding to matters relating to the second reason for refusal on the Council's refusal notice, such costs to be assessed in the Senior Courts Costs Centre if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

¹ Blackpool Local Plan Part 1: Core Strategy (2012-2027) Adopted January 2016

12. Seaside Hoteliers Ltd is now invited to submit to Blackpool 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

S Brook

INSPECTOR