



Costs Decision

Site visit made on 8 November 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

**Costs application in relation to Appeal Ref: APP/T1410/W/23/3317177
St Andrews Church, Blackwater Road, Eastbourne BN21 4NG**

- 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 Mark Overy N Living Limited for a full award of costs against Eastbourne Borough Council.
 - The appeal was against the refusal of planning permission for the redevelopment of existing site to create 17 houses with cycle parking and car parking.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice 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 applicant submits that the Council acted unreasonably in so far as it has failed to substantiate its reasons for refusal, prevented a development which should clearly be permitted, and failed to adhere to deadlines.
4. The only evidence provided to support the reasons for refusal were consultee responses to the planning application and the decision notice. As a minimum, I would expect a brief report detailing the Council's reasoning, outlining why it considers the proposal does not conform with the development plan, taking account of material considerations. Moreover, the Council has not refused the development for all the reasons sets out within the consultee responses, and there is no evidence before me explaining their decision making. For these reasons I consider that the Council has failed to substantiate its reasons for refusal.
5. Without an explanation on how the decision was made, it is unclear how the Council came to a different decision to myself. As there is no detailed evidence on why the Council chose to refuse the application and I have determined that the appeal should be allowed, I conclude that the Council's actions has prevented a development which should have been permitted.
6. Given the Council has not sought to provide additional evidence, I do not conclude that they have failed to adhere to the deadlines of the appeal.
7. Overall, I consider that the Council has acted unreasonably resulting in the applicant incurring an unnecessary expense. Therefore, a full award of costs is warranted.

Costs Order

8. 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 Eastbourne Borough Council shall pay to Mr Mark Overy of N Living Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Eastbourne Borough Council, to who a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Hobbs

INSPECTOR