
Costs Decision

Site visit made on 14 September 2016

by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 November 2016

Costs application in relation to Appeal Ref: APP/Z1775/W/16/3149926 Land at junction of Inhurst Road and London Road, Portsmouth, PO2 9JQ

- 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 Portsmouth City Council for a full award of costs against Mr D Morley.
 - The appeal was against the refusal of planning permission for a development described as the retention of 3 no. 3-storey houses.
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Decision

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

Reasons

2. 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. The costs application was submitted in writing: the appellant has not responded.
 3. The Council raises concern that, first, the appellant has failed to address its concerns in respect of a number of substantive matters where it sought further information and, second, that the appellant failed to provide a complete and accurate set of drawings.
 4. In respect of the second of these matters, I have concluded for the reasons set out in my main decision that the drawings submitted with the application are sufficiently adequate to enable the scheme to be considered. I have determined the appeal on their basis. I agree that it would have been preferable for the application drawings to have been updated to show the site's present surroundings. However, I am satisfied that the combination of the submitted floor plans and elevations together with the plans showing the site's red-line boundary is sufficient to appreciate the relationship of the scheme to existing development including that to the rear of the site. It is also noted that the scheme was at an advanced stage of development at the time that the planning application was considered by the Council. For these reasons, I do not feel that the appellant behaved unreasonably in that regard.
 5. Clearly, the Council and the appellant differ in respect of the other matters of substance in this appeal, relating to the living conditions of the scheme's occupiers, the development's parking arrangements and the provision for mitigation in respect of Special Protection Areas in the Solent. However, it does not seem to me unreasonable, as a matter of principle, for the appellant to seek to challenge these requirements through the appeal process. Indeed,
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I have agreed with the appellant's broad position in respect of the matter of the scheme's parking arrangements. While it is accepted that some material circumstances have changed, this is acknowledged in the appellant's submissions which refers to updated national and local policies. Therefore, while I have – for the reasons set out in my decision – agreed with the Council's overall conclusion that the appeal should be dismissed, I consider that it was not unreasonable for the appeal to have been made by the appellant.

Conclusion

6. For these reasons, I consider that the appellant did not behave unreasonably. As unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, I conclude that an award of costs is not justified.

M J Hetherington

INSPECTOR