

Costs Decision

Hearing held on 29 November 2016

Site visits made on 28 and 29 November 2016

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 08 February 2017

Costs application in relation to Appeal Ref: APP/Z1775/W/16/3153456 149A Albert Road, St Jude, Southsea PO4 0JW

- 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 Jaspal Singh Ojla (OJ's Discounts Ltd) for a full award of costs against Portsmouth City Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use of first floor of Class D2 premises (former Conservative Club) to a Sui-Generis Lap Dancing venue. .
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Decision

1. The application for the award of costs is dismissed.

Reasons

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeals process. Unreasonable behaviour can include preventing or delaying development which clearly should be permitted.
 3. The Planning Committee decided to refuse the application contrary to the advice of their professional officers who produced a written report analysing the effects of the proposal. Whilst a planning committee is not bound to accept the recommendations of their officers, if their technical advice is not followed, then reasonable planning grounds for taking a contrary decision need to be provided supported by relevant evidence.
 4. I recognise that consideration of planning applications often involves matters of judgement which at times can be very finely balanced. In this appeal the representations of local residents and traders emphasised their concerns regarding the effect that the use would have on the character and the vitality and viability of the Albert Road and Elm Grove District Centre.
 5. It was not, in my opinion, therefore unreasonable for the Planning Committee, where the issues are finely balanced, to give substantial weight to objections received from local residents.
 6. Whilst I have found against the Council with regards to the effect that the use would have on the Albert Road and Elm Grove District Centre I consider that the Council has provided a detailed appeal statement supported by policies adequately addressing these matters in response to the appeal and given the
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Committees' concerns regarding the effects of the proposal has not, therefore, acted unreasonably.

7. I conclude therefore that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. Accordingly, the application for costs fails.

Jo Dowling

INSPECTOR