
Costs Decision

Site visit made on 23 June 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 26 July 2017

Costs application in relation to Appeal Ref: APP/Z1775/W/16/3159990 25 Baileys Road, Southsea PO5 1EA

- 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 James Oliver (OMPD Ltd) for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for change of use from C4/C3 dual use to Sui Generis.
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Decision

1. The application is refused.

Reasons

2. 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 officer's recommendation in the Council's committee report was that planning permission should be granted. It is entirely within the remit of Members to come to a different view from that of its professional officers. In these circumstances, the PPG states that an authority is expected to produce relevant evidence on appeal to support its decision.
 4. It is implicit that the proposal would result in the loss of a communal space to accommodate the seventh bedroom of a house in multiple occupation (HMO). It has not been disputed that the licenced HMOs would be smaller than those for new build development under the nationally described space standards under the DCLG's Technical housing standards. Accordingly it has substantiated its case on amenity grounds in respect of the HMO residents.
 5. The Council has incorrectly detailed an objection on the basis of conflict with Policy PCS20 because the appeal property is already an HMO. However the Council has confirmed the property's use as an Class C4 HMO elsewhere in its statement and has accepted that the community is already imbalanced under the terms of its Houses in multiple occupation Ensuring Mixed and balanced communities Supplementary Planning Document (SPD). It has also drawn on the evidence from residents on noise and disturbance arising from the existing HMO and the effect on this on exacerbating the already imbalanced community. In this regard, there is specific evidence to support its objections based on neighbour's living conditions.
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6. I have concluded the proposal to be acceptable because there would only be the addition of one person. Nevertheless the Council is entitled to come to a different view with specific evidence as it has done so here. In considering the Council's case as a whole, its reason for refusal has been substantiated and nor has it offered vague, generalised or inaccurate assertions about a proposals impact unsupported by any objective analysis. My attention has been drawn to several planning permissions and appeal decisions concerning HMO. However not all of the full details of these cases have been presented to me to be able to comment and here the Council has used evidence to determine the proposal on its own particular planning merits.
7. Whilst I note the applicant's case regarding pre-mediated behaviour by members of the Council's Planning Committee, I am unable to come to a firm conclusion on this matter because of the conflicting nature of the evidence before me. In this regard, the minutes of the meeting indicate several members considered that the proposal needed to be considered on its merits which runs counter to the applicant's evidence. In any case, such purported behaviour does not relate to the appeal process.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon Parsons

INSPECTOR