
Costs Decision

Site visit made on 23 June 2017

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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/17/3169402 239 Powerscourt Road, Portsmouth PO2 7JJ

- 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 Alex Venables for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of grant planning permission for the change of use from C3 property to C4 HMO.
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Decision

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

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 has not been disputed that there are significant pressures on local residents at peak times for parking but the Council has failed to substantiate its case that the proposal would result in further unacceptable pressure for parking to the detriment of local residents. In seeking to rely on local opposition to the proposal, it has not addressed the consideration of whether the proposed HMO use would result in greater car parking requirements than the existing Class C3 dwelling house use in a location close to shops, services and public transport.
 5. The Council is entitled to consider the impact of the users of the HMO to be significantly greater than the use as dwellinghouse but such a view must be based on well-founded planning argument and evidence. My attention has been drawn to members and local resident's knowledge and comments but it has not been used to produce any objective analysis to judge the merits of this proposal. This is of particular importance because the Appellant has submitted several appeal decisions for similar proposals where Inspectors have concluded that there is no significant difference in activity between a Class C3 and a Class C4 HMO. The Council has submitted an appeal decision at Ormskirk in West Lancashire to support its position but this merely highlights to me the type of
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detailed evidence required in HMO cases where local opposition is being relied upon by a Council.

6. For all these reasons, the Council has prevented/delayed a development which should clearly be permitted, having regard to the development plan, national policy and other considerations. Such behaviour is unreasonable and has resulted in unnecessary cost for the applicant in pursuing an appeal. In this respect, a full award of costs is justified for work involved in the preparation and submission of the appeal, including statements. However such an award would not include lost income for the applicant arising from the use of the property as a HMO as this does not specifically relate to the appeal process.
7. 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 Portsmouth City Council shall pay to Mr Alex Venables, the costs of the appeal proceedings described in this decision.
8. The applicant is now invited to submit to Portsmouth City Council, to whom a copy of this decision has been sent, details of these 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 Cost Office is enclosed.

Jonathon Parsons

INSPECTOR