
Costs Decision

Site visit made on 8 January 2018

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2018

Costs application in relation to Appeal Ref: APP/Z1775/W/17/3185652 63 Jessie Road, Southsea PO4 0EJ

- 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 Anthony Lane for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for change of use from purposes falling within a C4 (house in multiple occupation) to a house in multiple occupancy for more than 6 persons (Sui Generis).
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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.
4. The applicant claims that the Council acted unreasonably in determining the application on the basis that: policy PCS20 of the Portsmouth Plan - Portsmouth's Core Strategy (the Core Strategy) clearly seeks to control the addition of new Houses in Multiple Occupation (HMOs) and not the intensification of an HMO and any resultant effects; the Council had no regard for the requirements of policy PCS23 of the Core Strategy; the Council sought to overstep existing regulatory controls within the Housing Act 2007 relating to internal amenity space, without presenting evidence to support its assertions; there was a failure to take into consideration, or apply proper weight to, the material considerations in this case; and that there was a failure to take into consideration other recently allowed appeal decisions where the circumstances were similar and costs were awarded, and to determine similar cases in a consistent manner.
5. In respect of the reference to policy PCS20 of the Core Strategy, I note that the Council's reason for refusal did not relate to that policy but instead concerned the living conditions of the occupiers of the HMO. In then having regard to policy PCS23, the Council reasonably noted the shortfall, albeit small,

in the communal kitchen and living room space as highlighted by the Private Sector Housing team and set out in the now published Supplementary Planning Document: Houses in multiple occupation – revised November 2017.

Notwithstanding my conclusions in my appeal decision, there were therefore material grounds for taking a different view to its officers.

6. In respect of the claims that the Council failed to take into consideration those other appeal decisions and determined this case differently to others, I do not have the full details of those other cases referred to in the claim. I am therefore unable to make a full and proper comparison of the circumstances, particularly in respect of the issue at hand relating to internal living space.
7. In conclusion, for the above reasons, I find that the Council did not behave unreasonably in determining the application and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR