
Costs Decision

Site visit made on 13 March 2018

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

an Inspector appointed by the Secretary of State

Decision date: 10 April 2018

Costs application in relation to Appeal Ref: APP/Z1775/W/17/3187443 103 Manners Road, Southsea PO4 0BD

- 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 Paul Lonsborough for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for a change of use from purposes within a C3 (dwelling house) or C4 (house in multiple occupation) to a seven bedroom seven person Sui Generis house in multiple occupation.
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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. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter at appeal. Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations is one such example. However, the fact that the Council disagreed with the Appellant's arguments and my decision does not confirm unreasonable behaviour. It will depend on the evidence put forward in support against the proposal.
4. The Council's reasons for refusal are clear in identifying the issue to be the effect of the proposed layout, quality and size of communal facilities on the standard of living accommodation for residents of the HMO and resultant conflict with policy PCS23 of the Portsmouth Plan 2012. The applicant has referred to the amenity standards of Nationally Prescribed Standards for HMO's within the Housing Act but equally the Council has referred to the amenity standards within its revised Houses in Multiple Occupation Ensuring Mixed and balanced Communities Supplementary Planning Document (SPD) 2017. Consideration of living conditions also inevitably involves some subjective judgement as what may be appropriate given the older, terraced and altered nature of the appeal property.
5. Although the SPD was adopted after the refusal of the application, it is a material planning consideration that I have to take into account. The Council

has detailed that the lounge/kitchen facilities would be undersized and cramped based on photographic images. On this basis, the Council has produced appropriate evidence to substantiate its reason for refusal and provided objective analysis.

6. The Council has detailed the intensification of use of the proposal and its impact on the mix and balance of uses within the surrounding area. Nevertheless, the SPD is a material consideration that represents a change in circumstance justifying the Council's position. In its evidence, it highlights that the SPD states that the Council will seek to refuse planning permission for changes of use from a Class C4 or mixed C3/C4 use to a HMO in Sui Generis use where the concentrations of HMOs already exceed the 10% threshold. Consequently, its approach is not unreasonable and its objections are not vague, generalised or inaccurate.
7. There have been various planning decisions on HMOs within the city. However, there has been no analysis of these decisions in terms of similarity with the present proposal and thus, it is not possible to show that the Council has been inconsistent in its determination of planning proposals. It is also the case that planning applications have to be considered on their particular planning merits and this indicates any differences between the appeal scheme and these developments can merit a different approach.
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