



Costs Decision

Site visit made on 25 February 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2019

Costs application in relation to Appeal Ref: APP/Z1775/W/18/3198506 11 Playfair road, Southsea PO5 1EQ

- 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 A Pandya for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for the 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 refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The applicant claims that the Council was unreasonable in refusing a development that clearly should have been permitted; did not substantiate its reasons for refusal, at appeal; did not determine similar cases in a consistent manner; and, persisted in objecting to a scheme which an Inspector had previously indicated to be acceptable.
 4. I appreciate that the outcome of the application may have been a disappointment to the appellant. However, elected members are not duty bound to follow the advice of their professional officers, so long as it is clearly demonstrated on planning grounds why a proposal is unacceptable and there is clear evidence to substantiate that reasoning. In any event, at the application's second passage to Planning Committee, after the Council's adoption of revised guidance, the officer's recommendation was to refuse.
 5. The Council's application of development plan policies against the first two main issues were narrower than mine. I gave greater weight to the material considerations surrounding these issues and reached a different conclusion. Nonetheless, its reasoning was objective, logical, applied thoroughly and demonstrated balanced conclusions against the development plan. It was entitled to reach these conclusions, which it substantiated, at length, in its statement.
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6. I do not have the details of the large HMO permissions granted by the Council which the appellant cites, so I cannot be sure that they are so like this development that the Council has been inconsistent in its determination of like cases. Nor is there evidence of an Inspector previously indicating this development to be acceptable. There may be allowed appeals in the area, but they do not concern this site, and I cannot be sure that their circumstances are so similar that the refusal of this development amounted to unreasonable behaviour.
7. I shared the conclusion of the Council on the third main issue regarding the habitats site. Given the provisions of the Habitats Regulations and the lack of mitigation, the Council's refusal on this ground was not unreasonable behaviour.

Conclusion

8. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not therefore justified.

Patrick Whelan

INSPECTOR