



Costs Decision

Site visit made on 7 May 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2019

Costs application in relation to Appeal Ref: APP/Z1775/W/18/3217420 32 Norman Road, Southsea PO4 0LP

- 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 Robert Leatherland 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 (house in multiple occupation) to 7 person, seven bedroom, Sui Generis (house in multiple occupation for more than 6 persons).
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Decision

1. The application for costs 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. Other examples include not determining similar cases in a fair and consistent manner and failing to provide evidence to substantiate any reasons for refusal.
4. Whilst I appreciate that the Council have previously granted planning permission for some similar proposals involving a change of use from houses in multiple occupation (HMOs) (Use Class C4) to Sui Generis HMOs, in this case it chose to refuse permission. The Council's reason for refusal in respect of the intensification of HMO uses is clear as are the concerns about cumulative effects. The nature of cumulative impact concerns is that there will come a tipping point after a number have been allowed when the effects become noticeable and potentially harmful. Whilst I am not satisfied that such a point has been reached in the vicinity of the appeal site at the present time, the Council is not unreasonable in reaching this view and thus, it is not possible to show that the Council has been inconsistent in its determination of planning proposals.
5. 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 those others that have been given permission can merit a different approach. As such, the Council's position was not unreasonable and

evidence was provided in the Council's statement in order to substantiate this particular reason for refusal.

6. The Council's reason for refusal relating to the living conditions of future residents sufficiently identifies the perceived shortcomings with the proposed layout, quality and size of communal facilities and resultant conflict with policy PCS23 of the Portsmouth Plan 2012 and Houses in Multiple Occupation Supplementary Planning Document (SPD) 2018. Whilst I have agreed with the appellant that the deficit in the communal living space is not so great as to result in conflict with Policy PCS23, the Council has exercised its planning judgement in reaching its decision and its objections are not vague, generalised or inaccurate.
7. The Council decided not to seek the mitigation payment required under the Solent Special Protection Areas (SPAs) Supplementary Planning Document during the application process as it had not anticipated recommending the application for approval. Whilst this aspect was not clear to the appellant or his advisors, the appellant has not been prejudiced in any way and nor have any additional costs been incurred from having to address the matter at appeal stage that would not have been incurred during the application process. Furthermore, Natural England has raised an additional issue in respect of the SPAs that has not been resolved and I am not capable of holding the appeal in abeyance to allow the parties to resolve it.
8. In conclusion, I find that it has not been demonstrated that the Council behaved unreasonably in determining the planning application and that the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR