
Costs Decision

Site visit made on 27 October 2020

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th November 2020

Costs application in relation to Appeal Ref: APP/Z1775/W/20/3253203 74 Jessie Road, Southsea, Portsmouth PO4 0EW

- 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 Simon Birmingham for a full award of costs against Portsmouth City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for change of use from class C4 (house in multiple occupation) to sui generis (house in multiple occupation for more than 6 persons) .
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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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant has made an application on two grounds. Firstly, on the basis that the Council has prevented or delayed development which clearly should have been permitted, and secondly, in delaying a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. In the first instance, the principal reason for the delay in determination immediately after the application had been submitted was the effect on the Solent Special Protection Areas. The Council could have determined the application expeditiously, or the applicant appealed, but the effect would have had to have been the same since as a matter of law, in the absence of imperative reasons of overriding public interest, the decision would have had to be to refuse the proposal. The application therefore cannot be said to have been likely to have been clearly permitted at that time.
5. Once this had been resolved, I can understand there being frustration by the applicant that it took some time for the matter to be determined. However, the applicant could have appealed earlier the failure of the Council to determine the matter, but this does not mean that the decision would inevitably have been to allow it. As I have concluded in my appeal decision that is not the case.
6. As to the other appeal decisions, I have found this decision on this appeal is fact specific. It related to a large extent to the physical dimensions of the

communal space. While the other appeal decisions are of interest, and pull in both directions on their individual facts, they do not give a particular view that those cases are so similar to the appeal proposal that a particular result was inevitable.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

RJ Jackson

INSPECTOR