
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

Decision date: 11 December 2020

Costs application in relation to Appeal Ref: APP/Z1775/W/20/3252500 130 St Andrews Road, Southsea PO5 1EX

- 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 L Harmer for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for change of use from a dwellinghouse (Class C3) or house in multiple occupation (Class C4) to 8 bedroom/8 person house in multiple occupation (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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application relates to whether, by not following the officer recommendation, the Council, prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. It is not unreasonable for a Council not to follow an officer recommendation provided the reasons are justified and supported by objective evidence. In this case there was a legitimate debate as to whether the communal accommodation would comply with the relevant policy test.
5. The Council's "Houses in multiple occupations (HMOs) – Ensuring mixed and balanced communities" Supplementary Planning Document can only be guidance and cannot be determinative. In any event, as I have pointed out in my appeal decision, both sides have referenced a floorspace figure from another non-planning document in seeking to justify their respective positions. The weight to be given to the Supplementary Planning Document and the "Standards for Houses in Multiple Occupation" document are matters of judgement.
6. Further, the shape of any communal accommodation will also be material as will be whether it also has to provide other functions. In this case the communal accommodation also has to provide a passage through the space to the kitchen area. It is a planning judgement as to whether the particular

proposal meets the policy tests taking all relevant factors into account, and while I came to a different conclusion to that of the Council, that does not mean that the Council's judgement was unreasonable.

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