



Costs Decisions

Site visit made on 28 June 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2021

Costs Application in relation to Appeal Ref: APP/Z1775/W/21/3271168 27 Guildhall Walk, Portsmouth, PO1 2RY

- 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 Old House Group Limited for a full award of costs against Portsmouth City Council.
 - The appeal was against the change of use of the first and second floor offices into 10no. studio/1-Bed self-contained apartments (Use Class C3).
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. It is the appellant's view that due to the timing of the application, the Council should not have considered the provision of natural light for all habitable rooms. In addition, due to the restrictions in place at the time of the application, it is suggested that rather than refuse the application based on noise concerns, conditions should have been used to control this matter and provide any necessary mitigation. Accordingly, the appellant is of the view that the Council prevented or delayed development which should clearly have been permitted having regard to the development plan, national policy, and any other material considerations.
4. In response to the first matter, in their evidence, the Council have acknowledged that this should not have been used as a reason for refusal. Accordingly, they have not sought to defend the issue. Although this would be frustrating for the appellant, in my view, the Council have been quick to acknowledge their mistake and therefore, they have limited the time and effort that the appellant would have had to spend on this matter. I agree with the appellant's analysis regarding this particular issue, however, due to the Council's action, I am satisfied that they have not behaved unreasonably. The second reason for refusal also ensured that an appeal would not have been avoided even if the Council had correctly interpreted the daylight matter.
5. In relation to noise, as identified in my decision, I find in favour of the Council. Again, I acknowledge the frustration on the part of the appellant regarding

their ability to accurately conduct noise surveys. However, due to the nature of the use and the surrounding premises, in my judgement, it is imperative that accurate data is used to inform the development. Moreover, as identified in my decision, I find that it would be unreasonable to use a condition to secure the necessary survey work. Accordingly, I am satisfied that the Council have not prevented or delayed development which should clearly have been permitted.

6. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and that therefore an award of costs is not justified.

Martin Chandler

INSPECTOR