
Costs Decision

Site visit made on 6 June 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Costs application in relation to Appeal Ref: APP/Z1775/W/21/3283929 33 Castle Road, Southsea PO5 3DE

- 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 Mark Keene for a partial award of costs against Portsmouth City Council.
 - The appeal was against the grant subject to conditions of planning permission for clear glazing (1.7m above FFL) to the two rear first floor windows; variation in window size and design and surrounding brick detailing to front and rear elevations (part retrospective).
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant has sought an award of costs on the grounds the Council has behaved unreasonably in the application of a condition which requires obscure glazing to rear windows when neighbouring properties on the terrace have clear glazed windows on the rear elevation at first floor level. The appellant states the claim is for partial costs to cover the expense of architectural services costs incurred as a result of the need to prepare and submit an appeal.
4. In terms of the planning merits of the case, this is a matter of planning judgment based on the circumstances of the site and the proposal. Although other developments can be a material consideration, they are not determinative as each site will have its own unique context. It is evident from the officer's report and the Council's submissions that this had been considered. It will be seen from my decision that I have agreed with the Council. It therefore follows that I do not consider the Council has behaved unreasonably.
5. I am therefore satisfied that the Council acted reasonably in refusing the application and the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

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

Rachael Pipkin

INSPECTOR