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## Costs Decision

Site visit made on 3 August 2023

**by L Perkins BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 August 2023**

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### **Costs application in relation to Appeal Ref: APP/Z1775/X/22/3300955 255 Francis Avenue, Southsea PO4 0AL**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ian Hebbard 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 a certificate of lawful use or development for: Existing use as a House in Multiple Occupation with 7 bedrooms.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (PPG) 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. Paragraph 48 of the PPG states:

*"If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.*

*If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether."*
4. In response to the appeal, no statement was submitted by the Council. Nor has any response been provided by the Council to the costs application.
5. As such, there is no explanation for the Council not reaching a decision within the relevant time limit nor any explanation why the lawful development certificate would not have been granted. I conclude that there were no substantive reasons to justify the delay in the determination of the lawful development certificate application.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

**Costs Order**

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Portsmouth City Council shall pay to Mr Ian Hebbard, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Portsmouth City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*L Perkins*

INSPECTOR