



Costs Decision

Site visit made on 11 December 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Costs application in relation to Appeal Ref: APP/Z1775/W/23/3320462 32 Drummond Road, PORTSMOUTH, PO1 4HP

- 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 Miss Jessica Dalton for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of planning permission for a garage conversion - existing building is connected to the main house, an adjoining door added to give access from the main house into the garage. The space will be used as an extra bedroom and part time for lodgers/Airbnb, Garage structure to remain as is with a new garage door.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 considers that the Council has behaved unreasonably by requiring the planning application in the first instance, then by failing to consider the application in terms of that proposed. The applicant considers they have incurred unnecessary expense in terms of preparing and submitting a planning application and subsequent appeal for works which do not require planning permission.
4. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
5. That the appellant continued with the appeal process does not accord with their assertion that the proposal does not require planning permission. Were they confident that the proposal did not require planning permission they could have disregarded the Council's decision and sought certainty through other avenues, such as a lawful development certificate or via the enforcement process should that have been actioned.
6. The Council has shown a level of consideration pertaining to its decision as well as shown knowledge of the site and local area. It has justified its findings with relevant planning policy and provided a reasoned approach to each reason for refusal.

7. However, I cannot disregard the Council's failure to assess the proposal in regard of that proposed, which was not described as a separate dwelling, nor why it did not seek to amend the description of development to reflect what it considered the proposal to constitute. Therefore, this lack of consistency between the Council's justification and that proposed has shown a lack of co-operation with the applicant in terms of properly defining what element of the scheme requires planning permission. This has led to the Council's decision not reflecting that proposed and the appellant being forced to defend on matters they consider not related to the proposal.
8. Nevertheless, as found within the appeal decision, no matter the use it is unlikely the proposed conversion would provide acceptable living conditions. Therefore, had the Council considered the proposal as described it is highly probable it would still have resulted in a refusal and an appeal would have been required. Therefore, I do not consider the expense of preparing the appeal as being unnecessary or wasted and therefore in this case an award of costs is not warranted.

RJ Redford

INSPECTOR