



Costs Decision

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Costs application in relation to Appeal Ref: APP/Z1775/D/24/3355865 24 Sussex Road, Southsea, PO5 3EX

- 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 & Mrs Chafer for an award of costs against the decision of Portsmouth City Council.
 - The appeal was made against the refusal of an application, Ref 24/00671/HOU, which sought planning permission for the construction of two-storey workshop ancillary to 24 Sussex Road (following demolition of garage 22-22a Sussex Road) with changes to boundary treatments.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) 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 or wasted expense in the appeal process. Unreasonable behaviour may be either procedural or substantive.
 3. The Applicants argue that there has indeed been unreasonable behaviour by the Council. The Conservation Officer and the Planning Officer, taking all relevant matters into account, recommended that permission should be granted. However, the Planning Committee disagreed and committee minutes indicate that refusal was appropriate because of "the loss of a historic building and the replacement of that building with a building that is modern and inappropriate for the street scene in a conservation area". No site visit by Members was undertaken when the Applicants feel it should have been. Furthermore, when the decision was issued it had been 'expanded' by non-specific reference to the Conservation Area 'test' re character or appearance, as well as Policy PCS23 in the Portsmouth Plan and the NPPF.
 4. The Applicants argue that the lack of a committee site visit, change from the minutes, and the lack of narrowing down of the Policy and NPPF conflicts, all represent unreasonable behaviour. On the latter two points there was insufficient clarity in the Applicants' view. When precision and explanation was sought from the Council it is felt that it was not provided to any meaningful degree. Given the foregoing the case is made that a full award of costs should be made.
 5. The Council has not commented on the claim.
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6. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
7. I recognise that an appeal process can be time and fee consuming and that professional assistance comes at a cost. It is clearly regrettable when Applicants feel that the processing of a planning application could have been dealt with better.
8. In this instance the decision notice added some detail to the resolution but as a rule I would not find that unusual and both the policy and NPPF content were touched on within committee papers. The preserve-or-enhance ethos in a conservation area is a well-rehearsed phenomenon and I can see how in a meeting one might reasonably uses shorthand. None of that should have been a surprise. I would assess that the Council has given clear reasons for the judgement it reached. I surmise that the Council dealt with the plans and information before them and reached a not wholly unsurprising or illogical decision on the scheme. This scheme was judged on its own merits.
9. There is not always a need to visit a site when sufficient explanatory and pictorial information is available to Members and, presumably, some local knowledge, was within the room. As to whether the reasons for refusal are suitably specific, I would say that they are clear and set out unequivocally the concerns of the Council and cross-refer to the applicable policy. In my opinion policies do not have to be stated in full or even extracted in part within a Decision Notice and helpfully, in any event, one can see how the elements of the debate lead to the decision. The decision reached and how the final decision was worded should not have been a surprise to the Applicants who were professionally represented at the committee meeting which was then followed by minutes that did record concerns. I see no need for a Planning Officer to subsequently elaborate further or enter into extended correspondence as sought by the Applicants. The decision, albeit disputed by the Applicants, was clear.
10. As it happens, I agree with the conclusion reached by the Council on the scheme. However, even if I had not, I would nevertheless defend its wording and assertions in the round as not being improper or overly-vague and its actions throughout the planning assessment process as not being irrational, improper or inconsistent or lacking in precision.
11. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR