
Costs Decision

Site visit made on 18 March 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Costs application in relation to Appeal Ref: APP/Z1775/W/24/3351279 234 Queens Road, Fratton, Portsmouth PO2 7NG

- 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 Jack Cotton for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal to grant planning permission for the change of use from a C3 dwellinghouse to sui generis house in multiple occupation.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the 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 Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs and the response of the Council has been made in writing and will not be repeated here in any detail. The appellant considers the Council has prevented and delayed development that should have been permitted. A catalogue of delays occurred, and inaccurate assumptions were made. The Council failed to engage in discussions throughout the application, with the appellant being misled and revised drawings not being considered. Other applications for similar schemes were determined much quicker, with the Council failing to determine cases in a fair and consistent manner.
5. The appeal has been dismissed for substantive reasons. Procedurally the Council has complied with the appeal requirements and deadlines, including providing a statement and suggested conditions. The concerns of the appellant focus upon the behaviour of the Council during the consideration of the original application. The change of recommendation at a late stage would have been frustrating for the appellant, particularly as a S111 agreement and associated contribution had been undertaken. The appellant had also provided revised drawings which the Council

- refused to accept. Irrespective of these delays and the change in recommendation, the issues with the appeal are such that it is not the case that development which should have been permitted has been delayed or prevented, nor would conditions have mitigated the harms.
6. The appellant has pointed out that the Council does not engage in pre-application discussions for schemes involving houses in multiple occupation (HMOs). Whether this is a Council policy has not been confirmed. A more helpful approach may have avoided the appeal, particularly given the long delays that occurred and the piecemeal nature in requesting information.
 7. The reason for refusal was precise and clear, making specific reference to a particular room and the harm to living conditions. The decision was made based on the submitted plans and drawings and a site visit was not undertaken. This was remiss of the Council, albeit when a visit was requested access to the property was unavailable. Notwithstanding this, the drawings show the juxtaposition of the window with the kitchen extension, although an early visit to the property would have illustrated the impact of this relationship and that of other features, such as the boundary wall.
 8. The appellant has also referred to the inconsistency of the Council's decision making, noting the approval of an HMO scheme for a neighbouring property and the prioritisation of other cases. This latter concern and the membership of the committee and behaviour of the councillors would be matters for the Council to address. The appeal decision explains that there are differences between the neighbouring scheme and the appeal, and these are such that it is not the case that similar cases have been considered inconsistently.
 9. The consideration of applications involves matters of judgement that are at times finely balanced. In this case the scheme raises particular considerations, with the Council giving a different weight to the issues than the appellant. There have been delays in dealing with the original application stemming from a variety of matters, and these and the change of recommendation at a late stage would have been frustrating for the appellant. Nevertheless, given the circumstances of this case, the decision to appeal and when, would have been one for the appellant to make.
 10. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

J J Evans

INSPECTOR