
Costs Decision

Site visit made on 22 November 2019

by A L McCooey BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 December 2019

Costs application in relation to Appeals Ref: APP/U3935/Y/19/3228124 & APP/U3935/W/19/3228125

2 Westleaze, Mill Lane, Swindon, SN1 4HG

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5) and 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 Swindon Borough Council for a full award of costs against Mr Richard James.
 - The appeals were against the refusal of listed building consent and planning permission for: Existing building to be converted to form an annexe as ancillary accommodation to main residence (amended proposal).
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Decision

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

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. The basis of the Council's application is that the appellant acted unreasonably by submitting a similar proposal to one that had been recently refused by the Local Planning Authority. The Council had also provided pre-application advice that this type of proposal would be unlikely to be approved.
4. The relevant section of PPG states the circumstances when an appellant may be at risk of an award of costs. These include when an appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period. There is no reference to where a Local Planning Authority has decided that development is unacceptable. I am not aware that there has been any recent similar appeal decision and in my opinion an award of costs in the circumstances of this case would run counter to the basic right to appeal against the decisions of the Local Planning Authority.

5. The appellant provides an email from the Council's Planning Manager in response to the appellant's request for continued dialogue in order to avoid an appeal. The email lists three options for the appellant, one of which is to appeal the Council's refusal of planning permission.
6. In these circumstances, the appellant has not behaved in an unreasonable manner. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

A L McCooey

Inspector