

Costs Decision

Site visit made on 23 March 2021

by Mr Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Costs application in relation to Appeal Ref: APP/U3935/W/20/3263946 79 Lansdown Road, Swindon SN1 3ND

- 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 Phil Brett for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of planning permission for the change of use from existing dwelling to 8 person HMO (Sui Generis) plus two storey rear extension.
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Decision

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

Reasons

2. 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 application for costs relies on both procedural and substantive matters. In terms of the procedural matters, it is stated that there has been a lack of co-operation as well as that fresh and substantial evidence has been provided at a late stage. In terms of procedural matters the applicant contends that the Council have prevented a development that should have been granted permission, that there has been a failure to substantiate each reason for refusal, there have been vague and generalised assertions over the proposals impact, permission has been refused on a ground capable of being dealt with by condition, that the Council has acted contrary to well-established case law and that it has not determined similar cases in a consistent manner.
4. With regard to the stated procedural matters, no evidence has been provided in respect of any failure on behalf of the Council to co-operate with the applicant. As such, this matter has little bearing on my decision. In respect to the submission of fresh and substantial evidence at a late stage, I accept that the Council introduced reference to updated parking standards within its appeal statement. However, the Supplementary Planning Document containing these standards was not adopted until 2021 and this was not a matter of material weight at the time the planning application was determined, and it was not possible to introduce this matter until a later stage in the appeal process. It was appropriate for the Council to bring this matter to the attention of the parties, as a material consideration. While the applicant has been required to address this matter, it was necessary. Consequently, I find nothing unreasonable in the introduction of this matter.

5. In respect of the substantive matters, while the recommendation to Members was to approve the application, Members took a different view, which they are entitled to do, apportioning weight to relevant matters as the decision makers. It is clear from the submitted information, that Members considered that the proposal would result in unacceptable impacts. While I have found differently on this matter, I do not consider that it was unreasonable to take a different view. The Council therefore considered it had reasonable grounds for resisting the development. The submitted information is sufficient to substantiate the reason for refusal and, in my view, does not rely on vague or generalised assertions.
6. The applicant contends the planning ground was capable of being dealt with by condition but has not suggested what such a condition would be. Moreover, no information has been submitted in regard to the case law which it has been alleged the Council has acted contrary to, or in regard to similar cases which it is contended this proposal has not been determined in a consistent way with. Accordingly, I am not convinced of any unreasonable behaviour on the part of the Council in these respects.
7. There is also reference to the Council acting unreasonably by imposing a condition that is not necessary. However, the appeal related to the refusal of planning permission, it was not against a condition imposed on a permission. Thus, this matter is not relevant to my consideration.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin Allen

INSPECTOR