



Costs Decision

Site visit made on 13 July 2021

by David Murray BA (Hons) DMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 26th July 2021

Costs application in relation to Appeal Ref: APP/U3935/W/21/3272507 Former Telephone Exchange, Fire Fly Avenue, Swindon, SN2 2GA.

- 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 Highworth Homes Ltd. for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of an application for planning permission for the change of use of the former telephone exchange (sui generis) to 7 apartments (C3) and associated works.
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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 appellant's case is primarily based on the position that the Planning Officer recommended that the application be approved but this advice was not accepted by the Council's Planning Committee who refused the proposal together with a previous submission. However, it is clear to me that the Committee had to balance many considerations including the expert advice of the Conservation Officer who raised objection to the proposal on the effects on designated heritage assets. The application was accompanied with photographs and is adjacent to a well-used public thoroughfare and I do not consider that it is material that the Members of the Committee did not formally visit the site to consider this application.
4. While there are many factors for and against the proposal including the reuse of a vacant building and the benefit of the removal of the existing external staircase, and taking notice of the stated structural limitations of the building, I concluded on the evidence put to me that the proposal would harm the significance of these heritage assets. The amended plans submitted by the appellant with the appeal did show that the internal arrangement of the building could be adjusted to minimise the effects on the living conditions of the future occupiers, but this issue was secondary to the first one concerning the visual impact of the work on the historic environment.
5. Overall, I find that it was not unreasonable for the Council to refuse the scheme and that it has been able to justify that decision on reasonable planning and conservation grounds. The costs of the appeal borne by the

appellant were therefore the normal ones arising when the right of appeal is exercised.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Murray

INSPECTOR