



Costs Decision

Site visit made on 14 May 2024

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2024

Costs application in relation to Appeal Ref: APP/U3935/C/23/3329502 72 Goddard Avenue, Swindon SN1 4HS

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Robert John Peyman for a full award of costs against Swindon Borough Council.
 - The appeal was against an enforcement notice alleging, without planning permission, the unauthorised operational development of the erection of a large dormer on the rear of the dwelling on the Site.
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Decision

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

Preliminary matter

2. The appeal to which this cost application is linked relates to an enforcement notice. Gillian Ann O'Connell and Robert John Peyman were both served with the enforcement notice at the address of 72 Goddard Avenue. The appeal was submitted in the name of G O'Connell. This application for costs was submitted in the name of Mr Robert John Peyman.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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.
4. The applicant claims that the Council behaved unreasonably in that the requirements of the notice were unclear, the incorrect fee for an appeal on ground (a) was stated in the notice annex, and the reasons for issuing the notice had no merit.
5. As set out in the appeal decision, I found that the requirements of the notice were sufficiently clear and that a minor drafting error could be corrected without causing injustice to either party. I also found that despite an incorrect fee being stated, the correct fee was subsequently paid and the appeal proceeded on ground (a). I have been presented with no evidence which would lead me to conclude that this was anything other than a genuine mistake by the Council, which was subsequently rectified, or that this matter resulted in any unnecessary or wasted expense for the Applicant.

6. The decision to serve an enforcement notice is one which is a matter of judgement, in this case based on the Council's assessment of the effect of the development on character and appearance, including of the Conservation Area. As can be seen from my appeal decision, I reached a different conclusion to the Council with regard to the effect of the development. I did not find any significant harm to character and appearance. However, the fact that I reached a different conclusion does not mean that the Council acted unreasonably.
7. I have been presented with no substantive evidence that the Council made factual errors or behaved unreasonably in reaching their decision to serve the enforcement notice. I am satisfied that the Council has shown that it undertook an appropriate assessment of the planning merits of the development as built, and adequately substantiated their reasons for serving the notice, in accordance with relevant policy.
8. Consequently, I cannot agree that the Council has acted unreasonably in this case, so there is no unreasonable behaviour to result in unnecessary or wasted expense for the applicant.

Conclusion

9. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not justified.

H Davies

INSPECTOR