



Costs Decision

Site visit made on 11 June 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

Costs application in relation to Appeal Ref: APP/U3935/W/24/3339011 151-152 Regent Hotel, Victoria Road, Old Town, Swindon SN1 3BU

- 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 Brett (Brett Invest Ltd) for a full award of costs against Swindon Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for subdivision of hotel (Class C1 use) into 2 (five bed) small HMO's (C4) and creation of 12 x one bedroom apartments with associated external alterations and replacement roof.

Decision

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

Reasons

2. 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.
3. The PPG indicates that requiring an appellant to enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework (the Framework) may constitute unreasonable behaviour.
4. In this case, the Council submitted evidence to substantiate its decision to seek a planning obligation. These included relevant development plan policies, open space standards, an Open Space Audit and Assessment, and the calculator used to establish the level of financial contributions sought. Taken together, these gave a reasonable justification as to why the contributions were being requested. Whilst I did not agree that the evidence was sufficient to demonstrate that the obligation met the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 or the Framework, it was not so insufficient as to constitute unreasonable behaviour.
5. Swindon Borough Local Plan 2026 Policies IN1 and EN3 set out the approach to infrastructure and open space. Both policies apply to schemes of under 25 dwellings and are therefore relevant to the appeal proposal. Whilst Policy EN3 states that residential development of 25 dwellings or more should provide open space on site, it does not say that developments of less than 25 do not have to make any contribution at all. The Council had a development plan policy basis for requesting contributions and did not act unreasonably in seeking them from a development of less than 25 units.

Conclusion

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Kent

INSPECTOR