
Costs Decision

Site visit made on 27 September 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 14 November 2016

Costs application in relation to Appeal Ref: APP/L3245/W/16/3144199 Land opposite Village Hall, Hopton Wafers, Shropshire

- 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 & Mrs Brian Perry for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for 6 No. dwellings and private access to parking.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The appellants seek a full award of costs, arguing that the appeal would not have been necessary had the Council properly applied its own development plan policies and, also that it should not have been necessary to address highways and ecology issues in the appeal.
 3. The designation of a village within a Community Cluster under the Shropshire Council Site Allocations and Development Management Plan (SAMDev) is not a site allocation and should not be interpreted as such. It is an indication that the settlement has been identified as being suitable for and capable of accepting additional residential development in line with the Council's overall spatial strategy. Residential development proposals on sites within such clusters need to be assessed against the criteria set out in SAMDev Policy S6.2 (ii); the Council undertook such an assessment and concluded that the appeal site did not meet those criteria.
 4. The Council's conclusions with regard to Policy S6.2 (ii) were not based solely on the risk that the proposal might result in the total volume of new housing within the cluster exceeding the development guideline, but on the assessment of the proposal against all of the criteria in the policy. I agree that the officer report on the application did not expressly set out a full assessment of the proposal against SAMDev Policy MD3.2, which is applicable in situations where a development would result in the provision of more dwellings than the development guideline; however, the various impacts and benefits of the
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development were clearly considered within the report and taken into account in reaching the decision to refuse permission. An adequate defence of the first reason for refusal was set out in the Council's Statement of Case.

5. In my determination of the planning appeal I find that no significant harm would be caused by virtue of the site being larger than a single infill plot or in the event that the proposal could result in the total volume of new housing within the cluster slightly exceeding the development guideline. However, having regard to its site specific effects I find that the proposal would not constitute sustainable development and would not, therefore, be consistent with Policy MD3 or the development plan as a whole. Accordingly I do not accept the appellants' contention that the appeal was unnecessary.
6. The ecology consultation response was placed on the Council's website on the 30 October 2014 and, although it would have been helpful for this to have been sent directly to the appellants' agent, it was not unreasonable for officers to expect that the agent would be monitoring such responses within those first few weeks after the application had been validated and registered. The appellants have produced no evidence to support their assertions that a lower parking ratio than that required by the Highway Authority would be acceptable; nor have any speed surveys been carried out to demonstrate that a visibility splay below the recommended standards would provide for a safe access to the site. Given that I have supported the Council's concerns with regard to these matters in my appeal decision I do not accept that the Council acted unreasonably in identifying these as reasons for refusal or that any unnecessary or wasted expense has been incurred by the appellants as a result.
7. I accept that the determination of the application took considerably longer than might reasonably have been expected but that of itself does not lead to a conclusion that the appeal should not have been required.

Conclusions

8. I conclude that no unreasonable behaviour on the part of the Council has been demonstrated and that the application for an award of costs should be refused.

Paul Singleton

INSPECTOR