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## Costs Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> April 2019**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/18/3210027 Eagles Inn, Harley Road, Cressage, Shrewsbury SY5 6DE**

- 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 David Poyner on behalf of Eagle Cressage Limited for a partial award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of 4no. new dwellings and conversion of existing former Public House to form 2no. additional dwellings with associated car-parking and landscaping.
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance 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 expense in the appeal process.
3. The appellant requested an extension of time to complete the Great Crested Newt survey, to which the Council agreed an extension until 20 April 2018. It was agreed that the appellant would keep the Council 'posted' in the meantime. There is no evidence of any further correspondence between the parties and the Council subsequently determined the application on 18 April 2018, two days before the agreed extension.
4. I acknowledge that there were four reasons for refusal, with matters relating to ecology being just one of them. Nevertheless, it seems to me that the Council's failure to comply with the agreed extension of time amounts to unreasonable behaviour.
5. However, the appellant submitted the appeal, accompanied by the bat and Great Crested Newt surveys, which, presumably, were the same ones being prepared at the time the Council determined the planning application. The Council have confirmed that they raise no objection to the findings of the surveys and accordingly, I have found no ecological harm in this respect. Had the surveys not been carried out, it is likely that I would have found such harm.
6. Therefore, whether or not the surveys were completed before or after the Council's determination of the application, based on the evidence submitted, it was necessary to carry out the survey to ensure that there would not be any

unacceptable ecological harm. Consequently, I do not find that the costs in carrying out the surveys were abortive. Therefore, unnecessary expense in the appeal process has not been demonstrated.

**Conclusion**

7. I therefore conclude that whilst the Council behaved unreasonable, this did not result in unnecessary expense during the appeal process. For this reason, an award for costs is therefore not justified.

*Alexander Walker*

INSPECTOR