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## Costs Decision

Site visit made on 17 March 2015

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 16 April 2015**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/14/3000886 Jessamine Cottage, Kenley, Shrewsbury, SY5 6NS**

- 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 P & L Wheeler for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission the 'erection of 1 detached bungalow to replace the existing café/shop'.
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### **Decision**

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

### **Reasons**

2. Irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. I shall, therefore, consider whether that has occurred in this case.
3. I am aware of the history of the site relating to the applicants establishing an attractive garden which is open to the public and the applicant's personal circumstances. As to considerations including whether the proposal would amount to sustainable rural development (including access to services and facilities), other similar schemes (including affordable housing and barn conversions) the desire of people to build their own home and providing housing for older people; these are all relevant to the planning merits of the appeal. I have therefore dealt with these matters in my appeal Decision.
4. In terms of whether the Council behaved unreasonably, the applicants have stated that the Council did not discuss the original application with them and they have also expressed some concerns as to whether or not the site visit was undertaken prior to or after the Council officer's report was written. However, no specific evidence to support this view is before me. Indeed I note that the applicants have indicated on the original application that advice was not sought from the Council prior to submitting the application. Whether or not the proposal would have been approved by the Council had there been a different officer involved is speculation.
5. Turning to the Council's determination of the original application itself, the officer sets out in considerable detail the reasoning behind the Council's decision and whether or not the proposal would meet relevant sustainable

development criteria. The officer's report lists a number of considerations relevant to the application. These include the countryside location of the appeal site which is weighed against social, environmental or economic factors (both those that weigh in favour and those that do not). The officer also references the existing commercial activities at the appeal site and acknowledges the applicants personal circumstances. Each factor was given due consideration as part of the overall planning balance. Specific Development Plan policies are clearly identified and referred to. Although the officer's report makes no specific mention of other similar housing schemes in the local area, they did provide further comments on this issue during the appeal process.

6. For these reasons, I consider that the Council's decision was not subjective. There is also little specific information before me to suggest that issues were either belittled, ignored, nor the evidence 'made to fit'. Whilst the applicants state that the officer's report contains factual errors, these have not been specifically brought to my attention.
7. The officer's report does refer to the application not reflecting the aspirations of the local community. Rather than implying that this indicates that the Parish Council did not specifically support the appeal proposal, a straightforward interpretation of this statement is that it was made because the local area has not been specifically identified as a location for housing growth in the Council's emerging SAMDev document. My appeal Decision explains that I gave this document limited weight and indeed that is a matter of common ground between the parties. However, the Council are entitled to refer to policies and housing growth strategies within the emerging document. The officer also specifically referred to the twelve representations that were received in support of the proposal. Therefore, unreasonable behaviour has not been demonstrated in this regard.
8. The applicants requested that four locations of other housing schemes within the local area close to the appeal site be visited on an accompanied basis during the site visit. However, the Council were not made aware of this request in advance of the visit itself. The Council officer explained during the visit that they were unable to accommodate the applicants request due to time constraints.
9. I appreciate that the applicants consider that visiting the additional locations may have only taken approximately 20 minutes and that either party during a visit may point out physical features on or in the vicinity of the site. Whilst an additional 20 minutes may not seem much, the Council officer explained that this would result in the visit as a whole taking approximately twice as long as the amount of time she would normally allocate for a site visit.
10. I consider that, had the applicants wished to be certain that their request could be accommodated; they should have specifically advised the Council in advance of the visit. Furthermore, it transpired that three of the four locations identified had not previously been referred to in the information submitted by the applicants during the course of the appeal. The additional information submitted by the Council relating to these four locations was done so in response to my specific request for further information. Therefore the Council's behaviour was not unreasonable in this regard.

11. Matters relating to the applicants request to the Council to determine the appeal via the Planning Committee and whether or not the Parish Council was able to meet to discuss the application are procedural matters for the Council and not directly relevant to the appeal process.
12. Drawing matters together, unreasonable behaviour leading to wasted expense has not been demonstrated.
13. For the reasons given above, I refuse the application for an award of costs.

*Victoria Lucas-Gosnold*

INSPECTOR