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## Costs Decision

Site visit made on 11 May 2015

**by I Radcliffe BSc(Hons) MCIEH DMS**

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

**Decision date: 28 May 2015**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/14/3001275 Cross Keys Inn, Kinnerley, Oswestry SY10 8DB**

- 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 Malcolm Guest for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for a four bedroom detached dwelling with detached garage.
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### **Decision**

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

### **Reasons**

2. 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. There is one claim to assess; whether the Council failed to produce adequate evidence to substantiate its reason for refusal, and thereby prevented development which clearly should have been permitted having regard to the development plan, national policy and any other material considerations.
3. The officer recommendation in relation this application was to grant permission. However, determining this application involved judgement. In such circumstances planning authorities are not obliged to accept officer recommendations, so long as reasonable planning grounds are advanced for taking a different decision. In its reason for refusal the Council identified that the close proximity of the proposed building would harm the setting of the listed public house. The appeal statement reaffirms this and by way of explanation notes that the proposal would adversely alter the historical context of the building and how it would be read within the street scene. It also notes that the statutory test in relation to a listed building is that special regard shall be had to the desirability of its preservation, including its setting. I therefore find that the Council through its reason for refusal and appeal statement presented respectable evidence which substantiated its reason to refuse planning permission.
4. It is alleged that the decision to refuse permission was perverse as the proposed development would enable the public house to come back into use. However, for the reasons given in the appeal decision I agree with the Council that this assertion is not well founded.

5. Taking all these matters into account, I therefore find that the Council presented respectable evidence which substantiated its reason to refuse planning permission. As a result, unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

*Ian Radcliffe*

Inspector