



Costs Decision

Site visit made on 31 January 2018

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 15 February 2018

Costs application in relation to Appeal Ref: APP/L3245/W/17/3187051 Land Opposite Village Hall, Hopton Wafers, Kidderminster, Worcestershire DY14 0NA

- 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 and Mrs Brian Perry for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for 4 No detached dwellings, vehicular access and parking.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that irrespective of the outcome of an appeal 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. In this case the appellant claims that as a consequence of a lack of proactive assistance, new highways objection and landscaping matters the Council has behaved unreasonably in the determination of the latest application the subject of this appeal.
3. The appeal followed the refusal on 22 September 2017 of an application made on 14 March 2017 for 4 No dwellings, vehicular access and parking. My decision which accompanies this costs decision agrees with the Council's overall assessment and dismisses the appeal under the terms set out in my decision.
4. I am aware that the current proposal is the second application for the development of the site and that the first refusal of permission was upheld at appeal. There is no dispute between the main parties that the site is suitable for residential development, but the appellant claims that no guidance or assistance has been provided by the Council. The evidence before me suggests that the Council has not been particularly proactive in dealing with this latest application. However, I am not aware that the appellant engaged with the Council before submitting the latest application in the light of the previous appeal decision. Pre-application discussions would have been an ideal opportunity to deal with any outstanding concerns in a proactive manner. I have no evidence that a pre-application service is not available to applicants.
5. Furthermore, the Council did delay determining the application whilst the appellant compiled additional information to address highways concerns in the form of a speed survey and traffic consultant's report. It seems that this was

- initiated by the appellant, but nonetheless the Council did not determine the case until the information had been consulted upon and confirmation received from Highways that there was no longer an objection to the proposal from a highway point of view.
6. Although the appellant claims that the Council has introduced a highway reason for refusal this does not appear to me to be the case. The single reason for refusal relates to the effect of the proposal on the character and appearance of the area contrary to Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy March 2011 and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan Adopted Plan 17 December 2015. These development plan policies relate to sustainable design and development principles and have been appropriately and reasonably applied to the proposal.
 7. There is acknowledgement in the Council's Development Management Report that there is no objection from Highways and furthermore the report confirms that in the view of the Council it would be unreasonable to withhold permission for reasons relating to highway safety. The reason for refusal does identify the absence of front boundary fences needed to achieve adequate sight lines among the concerns. Although the precise nature of this concern is not entirely clear by the wording used in the refusal it does not alter the overall objection to the proposal in terms of the design and appearance of the proposal and its harmful effect on the character and appearance of the area.
 8. The appellant has submitted a further plan during the appeal process to demonstrate how the proposal could accommodate landscaping, boundary treatment and the required visibility splay. However, as I have stated in my appeal decision the appeal process should not be used as a mechanism to amend proposals and as such I have based my decision on the plans submitted to the Council with the original planning application. If not submitted during the application process itself such amendments should be the subject of a fresh application to the Council.
 9. I do not dispute that some limited landscaping could be provided in conjunction with the access layout requirements. However, as stated in my decision this would not mitigate the harm I have otherwise found with reference to the effect of the proposal on the character and appearance of the area. As such I do not consider the Council has behaved unreasonably in its determination of the proposal submitted.

Conclusions

10. 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.

Alastair Phillips

INSPECTOR