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## Costs Decision

Site visit made on 25 June 2018

**by Kevin Savage BA MPlan MRTPI**

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

**Decision date: 7 September 2018**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/18/3195876 Former Haulage Yard, Bourton Road, Much Wenlock TF13 6AJ**

- 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 Mark Bradley for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for change of use of land for the siting of two timber holiday lodges for visitor accommodation.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the 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.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, or by not determining similar cases in a consistent manner.
4. The applicant's claim is based upon three grounds, which I will address in turn.
5. Firstly, the applicant states that the Council acted unreasonably in relying on certain policies to refuse the application, namely Policies CS1, CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy (March 2011) (the ACS), and Policies MD2 and MD11 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015). The applicant also contends that the Council was unreasonable in referring to paragraphs 7, 17 and 28 of the National Planning Policy Framework<sup>1</sup>. The applicant specifically states that the Council misinterpreted Policy CS16 through use of the term 'adjacent' which is not used in any of the quoted policies.
6. My decision on the appeal makes it clear that I do not agree with the Council on the main issue. However, I have found that the policies quoted by the

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<sup>1</sup> March 2012

- Council are relevant to the main issue of the appeal. These policies are interlinked and must be read together in order to fully consider the proposal. In my view, the determinative factors guiding the location of tourist development in rural areas, including location, proximity to services and effect on the character and appearance of the area, each involve judgement on the part of the decision maker based on the evidence of the case. Whilst the applicant may disagree with the Council's interpretation of the evidence, officers were entitled to describe the impacts as they saw them, and they had regard to the relevant development plan policies and other material considerations in doing so. Subsequently, the Council has defended its reason for refusal in similar terms.
7. I do not find that the Council's use of the word 'adjacent' in this context amounts to a manifest misinterpretation of the policy. The Council correctly quotes Policy CS16 at paragraph 6.1.4 of its delegated report, and the Council's case does not rest solely upon a question of whether the site is or is not physically adjacent to a settlement. I do not therefore find unreasonable behaviour in respect of the Council's interpretations of policies.
  8. Secondly, the applicant contends that the Council relied upon inaccurate assertions that the site did not have suitable pedestrian links and ignored the network of public footpaths in the area. The Council's comments were limited to the potential for pedestrians to access Much Wenlock via the B4378 road. However, I have concluded that the other footpaths referred to by the applicant would not offer a suitable alternative for direct access to Much Wenlock to access services and facilities. That the Council did not refer explicitly to them is not evidence of unreasonable behaviour, given that officers assessed the most direct and obvious route to Much Wenlock, and considered it to be unsuitable.
  9. Finally, the applicant contends that the Council has acted in an inconsistent manner, and lists several cases in support of his claim. The Council states that the cases referred to do not provide a direct comparison with the appeal proposal, as they all relate to existing businesses which were proposing expansion. In response, the Council provides examples of applications it has refused for purportedly similar development. Whilst I have found some similarities, such as the relative location in the Withies campsite case, there were also differences. Overall, the decisions cited by both parties relate to a variety of proposals, in various locations around Shropshire, and with differing material considerations attracting different weight within the planning balance, which is a matter for the decision maker in each case. The Council based its decision on the circumstances of the site's particular location, and I do not consider officers were unreasonable in reaching the conclusions they did, despite my not agreeing ultimately with the Council in my decision.
  10. I do not therefore agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

## **Conclusion**

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Kevin Savage*

INSPECTOR