
Costs Decision

Site visit made on 7 October 2014

by Michael R Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 10 November 2014

Costs application in relation to Appeal Ref: APP/L3245/A/13/2208947 The Gables, Nesscliffe, Shrewsbury SY4 1DB

- 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 Neil Fardoe for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for outline application (all matters reserved) for residential development to include affordable housing (resubmission).
-

Decision

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

Reasons

2. The *Planning Practice Guidance* ('the 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.
3. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal or prevent or delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. It also advises that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. A decision on the planning application was deferred at the Central Planning Committee meeting on 7 March 2013 to enable Officers to discuss with the Parish Council concerns it had raised regarding the SAMDev Plan¹ in relation to the proposed development and 'preferred sites' in the document. Whilst this led to a delay in the determination of the application, which had been submitted some 12 months earlier, I consider it reasonable for these matters to be clarified so that the Council could make an informed decision at the subsequent Committee meeting. Moreover, it was open to the applicants to

¹ *Site Allocations and Management of Development Plan Pre-Submission Draft (Final Plan)*

lodge an appeal on the grounds of non-determination at the time should they wish. The deferral does not therefore amount to unreasonable behaviour.

5. The application was refused contrary to the Officer's recommendation. Planning authorities are not bound to accept the advice of their officers, but if such advice is not followed, authorities will need to show reasonable grounds for taking a contrary decision and produce evidence to substantiate each reason for refusal on appeal. I see no reason to doubt that that the Committee judged the proposal properly in this case and reached its decision against the background of a detailed officer's report which included numerous consultation responses and a site visit by Members. Although the Committee may have been erroneously advised that access was not a reserved matter, it was not unreasonable for the Members to express reservations regarding the impact of the 'indicative access' on existing properties and their proximity to proposed development, notwithstanding the Planning and Highway Officers' support for the proposal.
6. In these circumstances and with this information before them, it is not unreasonable for the Members to take a different view to officers, and it is backed up by relevant evidence to support the decision.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael R Moffoot

Inspector