
Costs Decision

Site visit made on 27 January 2015

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 11 February 2015

**Costs application in relation to Appeal Ref: APP/L3245/A/14/2221002
Playing Field, Bishop Hooper School, Canham, Ludlow, Shropshire SY8 3BJ**

- 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 Ben and Mr Bert Truth and Mrs Bedford for a full award of costs against Shropshire Council.
 - The appeal was against the refusal planning permission for 4 No houses with garages.
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Decision

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

Reasons

2. The 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.
3. The PPG provides examples of circumstances which may lead to an award of costs against a local planning authority. Awards may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
4. 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 assessed the sustainability of the scheme and which included numerous consultation responses and a site visit by Members.
5. In these circumstances and with this information before them, it was not unreasonable for the Members to take a different view to officers, and it is backed up by relevant evidence to support the decision.
6. I note the appellants' concern that the refusal reason within the Council's decision notice did not reflect the decision made by the Committee. However, I am required to confine my considerations to the reason as it appears on the decision notice.

7. The loss of the playing fields did not form a reason for refusal on the Council's decision notice. However, it is clear from the Committee minutes that this issue was discussed and its loss was a concern. Reference to this issue within the Council's evidence is not therefore new evidence, rather a consideration that was taken into account. It was not therefore unreasonable of the Council to include this within its appeal statement.
8. I appreciate that the Council's position on the 5-year supply of deliverable housing sites was new evidence introduced at the appeal stage and that the appellants had to undertake further work in respect of this matter as contained within their response to the Council's statement. However, this response expanded upon the evidence already submitted within the initial statement of case. The additional work in respect of this matter was, I consider, limited. Furthermore, it would have been unreasonable of the Council not to provide this information, particularly as the circumstances had changed since the application was determined.
9. Within my decision I found that I had insufficient evidence before me from either the Council or the appellants to ascertain the Council's position in relation to the availability of deliverable housing sites. Accordingly, I assessed the proposal on whether it would represent sustainable development, as indeed the Council did when it made its decision.
10. I note that the appellants state that they undertook work on researching a highway reason for refusal. However, this did not form part of the Council's decision and accordingly does not form part of the appeal before me.
11. In light of the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
12. For the reasons given above, I refuse the application for an award of costs.

R C Kirby

INSPECTOR