
Costs Decision

Site visit made on 28 September 2015

by S. Ashworth BA (Hons) BPI MRTPI

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

Decision date: 2 November 2015

Costs application in relation to Appeal Ref: APP/L3245/W/15/3009723 Land at Kinton Business Park, Kinton, Nesscliffe, Shrewsbury SY4 1AZ

- 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 J Warner & Son for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for the erection of two live/work units.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraphs 16-030 of the Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellants consider that the Council has behaved unreasonably in this case by preventing or delaying an application which they consider should have been permitted having regard to its accordance with the development plan, national policy or other material considerations. Furthermore they consider the Council offered vague, generalised or inaccurate assertions about the proposal's impact which were unsupported by objective analysis. In particular the appellants consider that the Council relied on housing policies which were not relevant to the proposed live/work units and disregarded an appeal decision which had accompanied the application¹.
4. As discussed in the appeal decision, there are no specific policies within the development plan that relate to the provision of live/work units. Neither employment policies nor policies relating to the supply of housing are directly relevant as the proposal is a combination of the two uses. The Council has cited housing policies in their reason for refusal however it seems to me that these policies are not entirely determinative. However, the decision does not rest on these policies alone, but also takes into account general policies for development contained within the Core Strategy and advice within the National Planning Policy Framework. As such I do not consider permission was delayed as a result of failure to have regard to relevant policy and national guidance.

¹ APP/Q3115/A/13/2208529

5. As demonstrated in the officer's report, the application was clearly assessed against the guidance of the National Planning Policy Framework with regard to sustainability. The reasoning in the report is clear and neither vague nor generalised. The appellants and the Council fundamentally disagree on the matter of sustainability and therefore the issue could only have been dealt with by way of an appeal.
6. The Council does not appear to have taken into account the decision of the Inspector in the case outlined above which is a material consideration. This amounts to unreasonable behaviour. However, I am unconvinced, given the weight of the Council's conclusions on the other aspects of sustainability as set out in the officer report, that even had that appeal decision been taken into account, the conclusion would have been different.
7. Consequently whilst I have found some unreasonable behaviour on the part of the council, it has not resulted in any unnecessary or wasted expense to the appellant. Accordingly the application for costs is dismissed.

S Ashworth

INSPECTOR