The Planning Inspectorate

Costs Decision

Site visit made on 5 June 2017

by Harold Stephens BA MPhil DipTP MRTPI FRSA

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

Decision date: 22 June 2017

Costs application in relation to Appeal Ref: APP/L3245/Q/17/3169024
The Berries, Gravel Banks, Minsterley, Shrewsbury SY5 0HG

- 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 JR and Mrs PD Hilditch for a full award of costs against Shropshire Council.
- The appeal was against the refusal to have the planning obligation discharged.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The *Planning Practice Guidance* 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 Appellants and their agent received poor service from the Council at the application stage, including a lack of communication from the Council following the successful appeal decision APP/L3245/Q/16/3143661 on 17 August 2016 which was for a similar application to The Berries, the application was wrongly described and referenced and there was an absence of Council contact despite the fact that several emails were submitted to the officer responsible. There appears to have been little proper input from the Council at any stage of the planning application process. The Council failed to meet either of the two target dates for determination of this case[1] and failed to advise the Appellants of the later deadline. An appeal was lodged on 19 January 2017 against non-determination. None of this is disputed by the Council.

4. To confuse matters further, the Appellants and their agent received a refusal notice dated 18 January 2017 with the correct reference number but with an incorrect site address. As a consequence this involved the Appellants and agent in extra work chasing up a correct decision notice and lodging revised appeal forms - this time against refusal - and a covering letter seeking to explain to the Planning Inspectorate the confusing series of events which had led to that situation. The Council does not dispute this matter.

5. At this time two officer reports appeared on the Council's website – the first was a one page Planning Officer's report purporting to have been posted on 17 November 2016. However, it is clear to me that this report first appeared in mid-January 2017 and not on 17 November 2016. The second report was a

[1] 18 October 2016 and 15 November 2016

much longer report entitled Final Officer Report and this was posted on the Council's website on 24 January 2017 - six days after the decision date. Again these matters are not disputed by the Council.

6. As a result the Appellants and their agent faced the extra work of producing a Supplementary Appeal Statement with necessary comments on the Final Officer Report. This job was especially time consuming as it referred to two planning appeal decisions which were alleged to be relevant but failed to copy the decisions. The Appellants point out that these decisions were not at all relevant to the current appeal. Furthermore, it is clear that the Council rejected the previous relevant decision APP/L3245/Q/16/3143661 without providing an adequate explanation. The Council accepts that delays in posting the Final Officer Report resulted in the need for additional work by the Appellants including the additional cost of producing a Supplementary Appeal Statement.

7. Taking all of this evidence into account I consider that the Council's behaviour has been unreasonable throughout the life of the application and the appeal. My conclusions on the merits of the application are set out in my appeal decision and the prevailing planning policy indicates clearly that the planning obligation should be discharged. The Appellants have received poor service from the Council in relation to procedural matters through the failure to meet deadlines and through delays in providing relevant information. This is unreasonable behaviour and it falls within the list of procedural irregularities set out in the *Planning Practice Guidance.*[2] The application should not have needed to come to appeal; the Council's unreasonable behaviour has led the Appellants to incur unnecessary costs which could have been avoided.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Mr JR and Mrs PD Hilditch, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

9. The applicant is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Harold Stephens

INSPECTOR

[2] Paragraph: 047 Reference ID: 16-047-20140306