
Costs Decision

Site visit made on 25 July 2017

by **Siobhan Watson BA(Hons) MCD MRTPI**

Decision date: 8th August 2017

Costs application in relation to Appeal Ref: APP/T3725/W/17/3174151 Ranibagh, Mill Lane, Little Shrewley, Shrewley, CV35 7HN

- 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 Ian Saunders for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the erection of one dwelling.
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Decision

1. The application for a full award of costs is refused but a partial award is granted 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 the costs to incur unnecessary or wasted expense in the appeal process.
3. The Planning Practice Guidance says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
4. Examples of this are listed¹ in the PPG and include: "Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations" and "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis".
5. It is my view that the existence of an infill boundary does not necessarily mean that all land within that boundary would constitute an "infill plot." The explanation to Warwick Publication Draft Local Plan (WDLP) Policy H1 says that in Limited Infill Villages (LIVs), appropriate development includes rural affordable housing, limited infill development, the re-use of buildings, the redevelopment or partial redevelopment of previously developed land and replacement buildings. As such, the designation of an LIV allows for a variety of development types and is not a blanket approval for all of those categories of development on all sites within the boundary.
6. The Council substantiated its position that the proposed dwelling would not represent infill development. It did this by explaining that the plot is within a

¹ Paragraph 049 Reference ID 16-049-20140306

run of just 3 other dwellings; the dwellings to either side of the plot are set back from the road; and that Nos 3 and 4 Green Lane are not particularly visible from the end of the street. For this reason, the Council concluded that the plot did not sit within "an otherwise largely uninterrupted built up frontage which is visible as part of the street-scene" as required by WDLP Policy H11. For the reasons I have explained in my decision, I have come to a different conclusion. However, there is a significant degree of subjectivity in making an assessment as to whether or not a plot could be considered to be an infill plot and the Council gave coherent reasons to defend its position. I find no unreasonable behaviour in this respect.

7. However, regardless of the Council's 5 year housing land supply position, the Council's stance that the dwelling would be in an unsustainable location is perverse given that Little Shrewley is designated as a LIV in the WDLP which is at a very advanced stage. The section entitled "Sustainability" in the Officer Report made no reference to the status of the village as a LIV in the emerging plan. This was an important material consideration which the Council failed to properly address. The Council provided no clear explanation for its paradoxical views on the sustainability of the village. I therefore find unreasonable behaviour in respect of Reason 2 of the Council's decision.
8. The Council has therefore behaved unreasonably in relation to the second reason for refusal and thereby caused the party applying for the costs to incur unnecessary expense in the appeal process.

Costs Order

9. 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 Warwick District Council shall pay to Mr Ian Saunders, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting Reason 2 of the Council's refusal of planning permission which concerned locational sustainability. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Warwick District 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.

Siobhan Watson

INSPECTOR