
Costs Decision

Site visit made on 25 August 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

**Costs application in relation to Appeal Ref: APP/L3245/W/20/3251667
Lower House, The Sun Inn Junction B4368 to Beechwood, Corfton SY7 9DE**

- 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 Gary Smith for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of outline planning permission for construction of 3 detached houses and garages (gross external size to be approved) and creation of new vehicular access and installation of private treatment plant.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. PPG also provides examples of unreasonable behaviour by local planning authorities. PPG indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. It also includes the failure to produce evidence to substantiate reasons for refusal and vague, generalised or inaccurate assertions unsupported by objective analysis as well as preventing or delaying development that should have been permitted.
4. I appreciate that pre-application advice sought by the applicant did not raise concerns over certain aspects that were included in the refusal reasons and the frustration this may have caused. Nevertheless, while there may have not been any substantive planning policy change, such advice is given without prejudice and cannot pre-determine the outcome of a subsequent application.
5. An objective analysis of the relevant matters is required. Notwithstanding this, with the lack of defined settlement boundaries and definition of infill in the development plan, along with the need to weigh different criteria where the settlement housing guideline has been exceeded, these considerations will inevitably involve an element of subjectivity and are a matter of judgement. That there is disagreement between those involved is not uncommon and does not imply unreasonableness. While I have not agreed with some elements of

the Council's case, they have provided a reasoned justification as to how they reached it.

6. The application was with the Council for some time before making their decision and I note reference to "an instruction" with regard to housing numbers from another scheme¹. However, from the evidence before me, proposals received in Corfton during the application period did not add to the number of dwellings within the settlement with permission. Furthermore, there is no firm evidence that an earlier decision would have resulted in the approval of the scheme and avoided the need for an appeal.
7. I have found that the appeal proposal fails. I came to that decision based on my assessment of the individual considerations of this scheme, having regard to all the evidence and representations submitted.
8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case and there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Stuart Willis

INSPECTOR

¹ LPA reference 18/03863/OUT, APP/L3245/W/19/3242933