



Costs Decision

Hearing held on 21 August 2024

Site visit made on 21 August 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Costs application in relation to Appeal Ref: APP/L3245/W/24/3344498 Land north of Stepliss, Winnington, Shrewsbury, Shropshire SY5 9DQ

- 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 Christina Evans and Eleanor Evans for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the construction of 2no. local needs dwellings including provision of access, parking and garaging.
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Decision

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

The submissions for Christina Evans and Eleanor Evans

2. The costs application was submitted in writing. No additional points were made during the Hearing.

The response by Shropshire Council

3. The response was made in writing. No additional points were made during the Hearing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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.
5. The applicants consider that the Council have behaved unreasonably by failing to determine the application in a consistent manner when comparing similar approvals in loose knit settlements, and thereby delaying a development which should have been permitted having regard to relevant policies.
6. They have supported their case with reference to case law¹ which recognises that previous decisions are capable of being material in decision making. This is not disagreed with but whether a previous decision is material, and how much weight should be given to it is specific to each case and down to the decision maker. In this instance, as set out within the Appeal Decision, due to the uniquely subjective nature of defining a settlement within the bounds of the

¹ I Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P & CR 137 and *R (Midcounties Co-Operative Limited) v Forest of Dean District Council* [2017] EWHC 2050

local plan policies I have found little weight can be attributed to previous cases and each proposal must be considered very much on its own merits. Accordingly, that the Council did not agree with the applicants on this matter is an acceptable position for it to take and it has provided adequate justification for this position.

7. It is unfortunate the reason for refusal was written in such a way that it could be considered to misdirect in relation to the most important local plan policies. However, through the Hearing it was evident both parties thoroughly understood the policy position. Both had submitted appropriate commentary and reference to all relevant local plan policies within their evidence as well as satisfactorily justifying their individual but opposing positions.
8. Therefore, in this case, I do not consider the limited weight the Council has given to previous decisions made within their area as inconsistent but rather choosing to deal with each unique case on its planning merits. Notwithstanding this, had the Council given additional weight to the previous decisions, I am not convinced it would have necessarily altered the Council's opinion on its definition of Winnington as a settlement.
9. Accordingly, it is in all probability, that the planning application would have still been refused and the Appeal therefore necessary.
10. That the Council has not put forward a defence in relation to the case law element of the applicant's claim is noted. However, this in itself is not unreasonable. The Council have submitted a defence to both the appeal and cost claim and have justified its position adequately in both.
11. Therefore, I find unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

RJ Redford

INSPECTOR