



Costs Decision

Site visit made on 11 February 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Costs application in relation to Appeal Ref: APP/P3420/W/24/3348254 Land off Lordsley Lane, Ashley, Market Drayton, Shropshire TF9 4EQ

- 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 Jonathan Leat, Leat Solutions Ltd for a full award of costs against Newcastle-under-Lyme Borough Council.
 - The appeal was against the refusal of the Council to grant outline planning permission for development of one serviced plot for self-build and custom housebuilding (all matters reserved except access).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 applicant considers that his application was pre-determined for refusal by the case officer, and is seeking a full award of costs.
4. The applicant states that a consultee from Staffordshire County Council incorrectly assumed that future occupiers of the proposed self-build dwelling would need to walk along Lordsley Lane and the A53 to obtain access to local services in Loggerheads. The application was refused despite the Council being made aware that Loggerheads could be reached without using unlit vehicle used highways, through using the applicants own land, Footpath 27 and the Arriva 64 bus.
5. Previous appeal decisions¹ had indicated that the use of the Arriva 64 bus was an accepted sustainable form of transport, which the applicant considers was not given considerable weight in favour of the application.
6. However, the officer's report clearly referenced the Arriva 64 bus service, and recognised that it could be considered a suitable alternative mode of sustainable transport. The officer, though, considered that the route to reach the bus service would not be desirable. The officer noted the public footpath, but considered that such a route would not be viable to use on a daily basis to access services and facilities. The weight given to each consideration is a matter of planning judgement, and the weight attributed to the material considerations of a case is a matter for the decision maker. While I have come to a different conclusion to the Council, and

¹ APP/P3420/W/19/3225154; APP/P3420/W/23/3314808.

consider that the bus service could be accessed in a safe manner via the footpath, the appropriateness of the footpath as a safe and convenient route requires subjective judgement. I am satisfied that the Council considered the availability of the bus service and the use of the footpath in coming to its decision, and did not act unreasonably in this regard.

7. The applicant highlights that the Council, in coming to its decision, chose to compare the application with a scheme for a self-build dwelling at Farcroft, Manor Road², that was dismissed at appeal. The applicant does not consider this to be comparable to his application as unlike his scheme the proposal at Farcroft would have involved walking long distances along unlit, unpaved roads with high levels of traffic travelling at high speeds. The applicant alleges that an attempt to make the appeal decision at Farcroft comparable to his scheme amounts to unreasonable behaviour.
8. However, as has been established, the Council did not consider that the use of the footpath was an appropriate route from the proposed dwelling to access the bus services at Ashley. It was therefore not unreasonable of it to consider that the conclusion regarding the sustainability of the site at Farcroft was applicable to the appeal site. Again, I came to a different view, but as the Council did not consider that the footpath was a suitable form of access, which was a matter of planning judgement, and therefore felt that Loggerheads could not be reached safely on foot, it did not act unreasonably in comparing the two schemes.
9. Although I have come to a different conclusion to the Council on the appeal, I consider that it did not apply its judgement in an unreasonable manner, in accordance with advice in the PPG.

Conclusion

10. Unreasonable behaviour resulting in unnecessary or wasted expense has not therefore occurred and an award of costs is not warranted.

L C Hughes

INSPECTOR

² APP/P3420/W/23/3320812