The Planning Inspectorate

Costs Decision

Site visit made on 12 December 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 16 February 2017

Costs application in relation to Appeal Ref: APP/U2235/W/16/3156763 Shangri La, Horseshoes Lane, Langley, Kent ME17 3NA

- 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 and Mrs E Goode for an award of costs against Maidstone Borough Council.
- The appeal was against the refusal of planning permission for an outline application with all matters reserved for the construction of 5no. dwellings with associated parking, access and landscaping works on the land to the south of Shangri-La, Horseshoes Lane, Langley.

Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs my only be awarded against a party who have behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The appellants contend that the Council has failed to submit evidence that demonstrates the development would be unacceptably visible or prominent in this location, or substantiated its harm in terms of the views to and from the dipped slope of the Greensand Ridge, or the functioning of the Southern Anti-Coalescence Belt. It is considered that this amounts to unreasonable behaviour.

4. The Council's statement evaluates the increase in the impression of built mass at the appeal site in the context of the character of the adjoining development, the site boundaries and the wider landscape. The Council has also considered the surrounding open rural landscape taking into account the valued landscape of the dipped slope of the Greensand Ridge and its wider related landscape environment. Furthermore, although brief, I am satisfied that the Council has explained the function of the Southern Anti-Coalescence Belt and how it would be compromised as a result of the proposed development. As such, the Council has substantiated its reason for refusal in these respects.

5. The appellants contest the Council claims to have a five year supply of housing in place, noting recent appeal decisions that have contradicted this assertion. Furthermore, Maidstone's definitive housing requirement figure remains to be determined in the examination of the Local Plan and, as such, it is

unreasonable for the Council to maintain this position and not to consider Policy ENV28 to be out-of-date.

6. Whether or not a five year supply of housing land is in place or that Policy ENV28 of the 2000 Local Plan is considered out-of-date in respect of development boundaries, the proposed development needs to be considered in terms of its sustainability credentials, including environmental considerations. This is the fundamental concern at the heart of the Council's decision and this Policy also has a role to play in this respect. Whilst there is contention between parties with regard to the future housing land supply figures, it is not unreasonable for the Council to take a position on this matter in view of its own evidence base even if solely to balance the consideration of need for additional housing against the environmental impact of the proposed development.

7. Furthermore, it is contended that the Council has ignored evidence in respect of other planning and appeal decisions in the area, with particular reference to the Sutton Road site north west of the appeal site. Irrespective of other significant developments that may take place within the Borough each proposed development should be considered on its own merits as different circumstances will apply.

8. It is implied that the Council did not properly consider the imposition of a condition to limit the height of the proposed dwellings. Paragraph 206 of the Framework explains that planning conditions should only be imposed where they are, amongst other matters, necessary to make a development acceptable. This is reiterated in the Government's Planning Practice guidance. Were the height of the development the only pivotal factor influencing the acceptability of this proposed development then such a condition could be seen to be reasonable. However, this is not the case here. I do not consider the Council has acted unreasonably by not considering the imposition of such a condition.

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

Nicola Davies

INSPECTOR