The Planning Inspectorate

Costs Decision

Site visit made on 31 January 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 23 February 2017

Costs application in relation to Appeal Ref: APP/R3650/W/16/3163636 Easting 487760: Northing 143771 Whitmead Lane, Tilford GU10 2BP

- 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 Mark Powis and Mr & Mrs Nicholas for a full award of costs against Waverley Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for the change of use from a storage building and builder's yard to a residential dwelling - resubmission of withdrawn application WA/2016/0516.

Decision

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

Reasons

2. National guidance on the award of costs is set out in the Government's Planning Practice Guidance (PPG). This advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It states that unreasonable behaviour may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.

3. The applicant claims that the Council's conclusion that the proposed dwelling would be isolated was unreasonable, and that its reliance on Policies IC2 and IC3 of the Local Plan 2002 in concluding that there was no evidence that there was no need for the site to be retained for employment purposes was wrong.

4. I attributed less weight to the woodland between the site and the houses to the north because of its limited coverage and I accorded more weight, because of proximity and alignment, to those to the west, which led me to conclude that the site was not physically isolated. However, the Council's conclusion that the site was isolated, given its topography and the amount of surrounding woodland, was not unreasonable in the circumstances.

5. The site is definitively located outside the settlement boundary and the Council gave sufficient reasons, including the distances to facilities, and the nature of their access, to justify its conclusion of the site being isolated from services. My finding was more pragmatic, concluding that the lack of footpath and lighting was not so significant in the circumstances, nor, when considering the existing semi-rural location of the settlement and its proximity to Farnham and the advice in the National Planning Policy Framework, were the factors identified by the Council materially isolating.

6. As regards the loss of employment land, the applicant considers that the use of the site is excluded from the industrial and commercial land which Policy IC2 protects. However, the applicant relies for this on the text of a supporting paragraph rather than the actual Policy. In any case, while the supporting paragraph's description of industrial and commercial development does not specifically include sui generis uses, neither does it exclude them. My conclusion was that Policy IC2 was relevant.

7. I agreed with the applicant that Policy IC3, cited as one of the policies in the reason for refusal, was not engaged, because the Policy describes the land relating to it to be shown on the Proposals Map, and there was no evidence supporting this. In this respect, part of the Council's reason for refusal in respect of this issue, was inaccurate.

8. However, the Council's statement suggests that Policy IC3 was applied as a fail-safe, should the site be found to be not suitably located under Policy IC2. The applicant's argument was focused substantially on the relevance of Policy IC2, with a relatively brief, dismissive paragraph on the irrelevance of Policy IC3. Given that Policy IC2 was relevant, and that the Council placed so centrally to its argument the applicant's failure to demonstrate that there is no need for the site to be retained for employment purposes, I conclude that the misapplication of Policy IC3, in these circumstances, had minimal effect. It was not determinative, and did not amount to unreasonable behaviour.

Conclusion

9. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Patrick Whelan

INSPECTOR