Costs Decision

Site visit made on 10 January 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 24th February 2017

Costs application in relation to Appeal Ref: APP/H2265/W/16/3157366
Land North of Robin Hood Lane, Blue Bell Hill, Chatham, ME5 9JY

- 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 J Greenfield for a [partial] [full] award of costs against Tonbridge & Malling Borough Council.
- The appeal was against the refusal of the Council to grant subject to conditions planning permission for the erection of 5 dwelling houses and 5 detached garages with associated access parking and turning areas and landscaping.

Decision

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

Reasons

2. 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. The history of the appeal site was explained at length in the Officers report. There can be no doubt that Council members were aware of the planning history of the appeal site. The planning permission granted at appeal was in 1988 and the most recent planning permission for the site was granted in 1990, about 25 years prior to the determination of the appeal application. During the intervening period, the highway scheme had been implemented and the Core Strategy had been adopted. In addition, the appeal site was not designated as countryside at the time of the previous decisions. Consequently there has been a significant change in circumstances since the time of the previous planning permissions. The weight to be attributed to the planning history is a matter for the decision-maker and I do not consider that the Council has behaved unreasonably in terms of the weight it afforded the history of the site.

4. The appellant states that Committee Members were not informed that the site had been put forward in response to the *Call For Sites* and had been considered to be suitable and deliverable for housing development. The Officers report recommended that planning permission be granted for the proposal and therefore the failure to refer to the fact that it had been considered in the *Call For Sites* is not unreasonable.

5. The Council's statement describes the character of the part of Robin Hood Lane where the appeal site is located and explains that its concern relates to the

backland location of the appeal site. Council members would have local knowledge of the area and are not bound to accept the advice of their officers, provided they have valid reasons for doing so. Whilst I agree that the Council's statement in relation to this matter is not particularly detailed, it does provide sufficient information to substantiate the second reason for refusal. Since the second reason for refusal related to the backland nature of the appeal site, I disagree that this matter could have been addressed by way of conditions.

6. The Council's statement confirms that the National Planning Policy Framework is a material consideration, it is also addressed in the committee report as a factor weighing in favour of the appeal scheme. The proposal was considered by the planning committee and there is no reason to suppose that members would have been unaware of the policies within the Framework.

7. The Council confirm that it is able to meet the housing requirement of the emerging Local Plan, and whilst this has been questioned by the appellant not substantive evidence to the contrary was submitted.

8. The costs application is critical of the weight afforded to various material considerations by the Council which as explained above is a matter for the decision maker. There is no evidence before me to indicate that the Council failed to have regard to a relevant material consideration.

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

Lesley Coffey

INSPECTOR