The Planning Inspectorate

Costs Decision

Site visit made on 20 March 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 3rd May 2017

Costs application in relation to Appeal Ref: APP/R3650/W/16/3161194
34 Three Stiles Road, Farnham, Surrey GU9 7DE

- 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 & Mrs R Green for a full award of costs against Waverley Borough Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for erection of a dwelling and associated works.

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The Appellant submits that the Council has acted unreasonably in that they have delayed development which should have been granted permission, failed to produce evidence to substantiate the reason for refusal at appeal and given vague and generalised or inaccurate assertions about the proposals impact, including giving limited weight to the National Planning Policy Framework. In these matters, the Appellant considers that insufficient regard was had to the appeal decision on the opposite side of Three Stiles Road, whether the development would be intrusive in the landscape, and the speed of the consideration of the application.

5. In respect of the timescales of the consideration of the application, I understand that the 8 week statutory determination period expired on 20 September 2016, with the application scheduled to be considered at the 26 October Western Planning Committee meeting. The Council have explained that there had been a call-in to committee and that the appellant had been

made aware of this. Given the above, I consider that such a delay in the consideration of the application does not constitute unreasonable behaviour.

6. The Council, in their Officers report and their appeal statement have clearly had regard to the appeal decisions[1] on the site opposite, and the effect of the development on the character and appearance of the area. I am also mindful that in those appeal decisions, and what was ultimately before me, the Council could not demonstrate a five year supply of housing and therefore was required to consider the fourth bullet point of paragraph 14 of the Framework. This makes it clear that where development plan policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

7. In considering the planning merits of the proposal, I found that the development would lead to some harm to the character and appearance of the area. It is noted that the Appellant did not explicitly advance a case that suggested the Council could not demonstrate a five year supply of housing. However, given the change in the Council's position, I considered that the level of harm did not significantly and demonstrably outweigh the benefits of the development. Given that the Council were not required to undertake that task at the time of their consideration at Western Planning Committee meeting, I consider that no unreasonable behaviour occurred.

8. I have also considered that the Officer who wrote the committee report had not visited the site, and instead relied on photographs and discussions with another officer. Whilst this is regrettable, given the availability of photographs and a dialogue between professional officers, I consider that this does not amount to unreasonable behaviour.

9. Finally, I understand that there is a further planning application on the site which is awaiting determination and it is suggested that this would not be determined prior to this appeal decision. Whilst I am not clear on the reasons for such, this does not amount to unreasonable behaviour associated with the appeal before me.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR

[1] APP/R3650/W/15/3121470 & APP/R3650/W/15/3136655