
Costs Decision

Site visit made on 30 January 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 March 2019

Costs application in relation to Appeal Ref: APP/K1128/W/18/3208541 Land to east of Lyte Lane, West Charleton, Kingsbridge TQ7 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 Messrs Rogers and Mrs Pike for a partial award of costs against South Hams District Council.
 - The appeal was against the refusal of the Council to grant planning permission for an outline application with some matters reserved for construction of up to 24 dwellings (including affordable housing), village green, children's play area, parking area, and associated works including landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 applicants claim that the Council acted unreasonably in:
 - its submission of the Plymouth, South Hams & West Devon Local Planning Authorities' 2018 5 Year Housing Land Supply Position Statement December 2018 (the PS) during the course of the appeal;
 - use of the PS to inform the Council's appeal statement, resulting in a shift in position on the 5-year supply of deliverable housing sites (5-year supply).
4. In this context the applicants claim that the PS represented new evidence whose contents were incapable of altering the Council's 5-year supply, but which created additional work for consultants.
5. The appeal case presented by the applicants made strong reference to the Council's inability to demonstrate a 5-year supply at the time the planning application was determined. It also drew attention to the Council's Housing Position Statement 2015, and appeal decisions within which various figures were quoted. As such I consider that the 2018 PS was itself directly relevant to the appeal.
6. The PS provides the most current indication of the supply of deliverable housing sites in South Hams set against requirements generated by local housing need, whereas the 2015 statement and other material relied upon by

the applicants is now clearly out-of-date. In this context it would be both unreasonable and inappropriate for the Council to disregard the PS.

7. As outlined in my main Decision, given that the PS had not been published at the point at which the planning application was determined, it could not have been used by the Council to demonstrate a 5-year supply at this time. Regardless of whether or not the facts upon the PS is based were new, the information was not therefore available in a format which allowed its use by the Council in making its decision. In this context there was clear scope for a shift in the Council's 5-year supply position. The Council's submission of the PS once it became available, and reference to it within their appeal statement, was not therefore unreasonable.
8. As the findings of the PS are not provisional upon adoption of the South West Devon Joint Local Plan 2014-2034 (JLP), the current status of the JLP has no direct bearing on the current validity of the PS.
9. I note that no detailed critique of the PS or substantive basis for disregarding its findings have been provided by the applicants despite the claim that costs have been incurred in the context of its appraisal.

Conclusion

10. For the reasons set out above, I conclude that the Council did not act unreasonably on the grounds claimed by the applicants. As such no unnecessary or wasted expense was incurred by the applicants in making the appeal. The application for costs is therefore dismissed.

Benjamin Webb

INSPECTOR