The Planning Inspectorate

Costs Decision

Site visit made on 20 May 2019

by Tim Crouch DipUD MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 July 2019

Costs application in relation to Appeal Ref: APP/Z2260/W/18/3218508
Land Adjacent 118A, Monkton Road, Minster, Ramsgate

- 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 R & A Noel of Citi Nests and Mr DJ and Ms SA Fuller for a full award of costs against Thanet District Council.
- The appeal was against the refusal of planning permission for the erection of 5No detached dwellings with associated parking including access and landscaping.

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance 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.

3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The appellants states that the Council has failed to substantiate the reasons for refusal and provided no specialist evidence to challenge that of the appellants' expert landscape architect in relation to the effect upon the surrounding area. They consider that undue weight was placed on policies out of date or within an unadopted plan, and failed to recognise the benefits of the proposal and apply the 'tilted balance' in favour of development given the lack of a demonstrable 5 year supply of deliverable homes as required by the National Planning Policy Framework.

5. The Council's officer report contained a significant section analysing the effects of the proposal on the character and appearance of the area. This was with particular regard to the Thanet Landscape Character Assessment (LCA) (2017) concluding that there would be a harmful effect. Whilst Policy CC6 was erroneously referenced, which refers to local gaps and no longer forms part of the development plan, the LCA includes references to maintaining the sense of separateness and identity of distinct settlements which was a relevant consideration. The error was accepted by the Council in submissions but it noted the relevance of the analysis on local character. The fact the Council

chose to rely on, and reiterate, its original evidence base, the LCA, which is relatively recent document, as part of the appeal was not unreasonable.

6. The Council also put 'some' weight in the officer report towards emerging Local Plan policies which seek to deliver homes to meet the 5 year supply requirements. Whilst weight was attached to these policies, they were not included on the decision notice. 'Little weight' was applied to the emerging local distinctiveness policy. This indicates the direction of travel for an emerging Local Plan which is moving towards submission following public consultation. However, this again was not included on the formal decision notice. The proposal was solely refused for reasons in relation to the adopted Local Plan (apart from Policy CC6).

7. The Council accepted the lack of a current housing supply in its 'Housing Need' section. This was clear. The conclusion was a clear balancing act noting the economic and social benefits, which it considered 'extremely modest', against the 'severe environmental harm' on the rural local character. Whilst not explicit about applying the 'tilted balance' as required in such cases by the National Planning Policy Framework (the Framework) the following refusal was not unreasonable given the Councils analysis of the harm.

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

Tim Crouch

INSPECTOR