



Costs Decision

Hearing Held on 8 October 2019

Site visit made on 8 October 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Costs application in relation to Appeal Ref: APP/C3810/W/19/3220233 Pound Place, Roundstone Lane, Angmering, BN16 4AL

- 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 Hallmark Care Homes for a full award of costs against Arun District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of a 64 bed care home (C2), with car park, landscaped gardens and access from Roundstone Lane, following demolition of the existing dwelling.
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Decision

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

The submissions for Hallmark Care Homes

2. The application was made orally at the hearing. The thrust of the applicants' case is that the Council have behaved unreasonably in relation to the appeal. More specifically that the consideration of the need for this type of accommodation was considered in the 62 bed scheme¹ but has not been correctly factored in when considering the appeal scheme. Therefore, in this area the applicants consider that the Council has not justified its approach on that point and has therefore acted inconsistently and unreasonably. The second point made was that at the hearing the Council accepted that the tilted balance was engaged. The final point related to consideration of the need for affordable housing provision.

The response by Arun District Council

3. The Council responded orally at the hearing. In particular it pointed out that it does not consider that it has been demonstrated that the Council's actions have led to additional costs for the applicants in the appeal process. The Council set out that policy HDM2 is referenced in the officer report and that this policy recognises that there is a need for this type of accommodation. In addition, it set out that the report considered economic and employment benefits from the scheme and that they were considered. Regarding the tilted balance the Council set out that when the report was produced the Council had five year housing land supply in place. However, in the statement of case it did not make the case that it existed and therefore this is not an issue. Regarding reason for refusal 3 the Council considers that it made the applicants aware of the position regarding the provision of affordable housing as soon as possible.

¹ LPA Ref A/9/19/PL

In addition, throughout the appeal the Council submitted that it thought a planning obligation was being prepared and that it was only at a late stage that it was apparent that a planning obligation would not be provided. Therefore, the council consider that its handling of the application and appeal process has not led the applicants to incur additional costs.

Reasons

4. The Planning Practice Guidance (PPG) 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.
5. The first point raised by the applicants relates to the Council's consideration of the need for the care home. More specifically that when the more recent scheme for a 62 bed care home was determined that the Council considered the need for the type of accommodation more comprehensively than it did for the appeal scheme. I appreciate that the committee reports do differ on this point. However, given the councils fundamental concerns regarding the effect of this scheme on the character and appearance of the area, I do not consider that this would in fact have led to a different decision or the appeal being avoided.
6. In the appeal submissions the Council has accepted that the tilted balance is engaged. However, the Council has also explained clearly how there has been a change in its five year housing land supply position from the application through to the appeal. In doing so the Council has explained its position on applying the tilted balance. As such I do not consider that the Council has behaved unreasonably on that point.
7. The Council has maintained its objection to the scheme on the matter of character and appearance. This is a matter of judgement for the decision maker. The Council has supported its case on this point with reference to relevant planning policies, written and verbal evidence. Therefore, whilst the Council came to a view contrary to the applicants, I do not consider that it is inherently unreasonable.
8. I appreciate that the Council accepted in its written evidence that there was not a requirement for affordable housing and this was contrary to the published committee report. However, this did not alter the need for the appeal to proceed on the issue of character and appearance. As such, whilst this chain of events and correspondence throughout the application and appeal process would appear to be regrettable, I do not consider an award of costs on this point is justified.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. For the reasons given above I refuse the application for an award of costs.

D J Board
INSPECTOR