The Planning Inspectorate

Costs Decision

Site visit made on 3 December 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Costs application in relation to Appeal Ref: APP/H1705/W/19/3234647
Land at Glebe Close, Dummer RG25 2AA

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Antler Homes Plc, Vortal Properties Limited, David Samuel Frankham and Beverley Ann Frankham for a full award of costs against Basingstoke & Deane Borough Council.
- The appeal was against the refusal of planning permission for erection of 17 dwellings and associated access and amenity space.

Decision

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

Reasons

2. The Planning Practice Guidance[1] (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG[2] lists different types of behaviours which may give rise to a substantive award against local planning authorities.

3. The applicants argue that the Council acted unreasonably in failing to respond to their full Statement of Case, and introducing additional grounds for refusal at a late stage, which are not substantiated and are in direct conflict with the Case Officer's report. The applicants also consider that the Council did not produce a statement in line with the Planning Inspectorate's Procedural Guidance or the PPG.

4. Furthermore, it is alleged that the Council failed to cooperate with the applicants and did not enter into negotiations on the draft legal agreement until the 15 November 2019, despite agreement with the Council's Housing Officer and Head of Planning in respect of the type of affordable housing proposed as part of the development. Lastly, it is argued that the Council acted unreasonably in refusing to engage with the applications regarding the draft Statement of Common Ground.

5. As detailed in my decision, there have been a number of changes in circumstances since the determination of the planning application, which the Council made the Planning Inspectorate aware of, in accordance with the Procedural Guide on Planning Appeals. These included changes to the Council's

[1] Appeals (Paragraph: 030 Reference ID: 16-030-20140306).
[2] Paragraph: 049 Reference ID: 16-049-20140306.

Housing Land Supply position, the decision to refuse a subsequent application for a similar scheme on the appeal site, as well as a change in position in respect of residential development proposals situated in the wider catchment of the Solent. The applicants had the opportunity to respond to these points as part of the appeal process, which I took into consideration in reaching my decision.

6. Although, as stated within the Inspectorate's Procedural Guide, the Council should not introduce new policies or raise new issues beyond those in the reasons for refusal, I note that concerns were raised during the course of the planning application by the Council's Conservation Officer and other interested parties. Additionally, the revised application was partly refused on heritage grounds by the Council's Planning Committee, which is an important material consideration for the determination of the appeal before me. The points covered by the Council, particularly on heritage grounds, were therefore not new issues, and were in this instance justified by changes in circumstances as detailed above.

7. I understand the applicants' frustration regarding the length of the process it may have taken to submit a duly completed planning obligation, but this has not prejudiced the applicant's position as part of the appeal process. The Council's rebuttal explained that the delay was to some extent caused by the concerns raised by the members of the Planning Committee as part of the revised application. A certified copy of the Section 106 legal agreement, which was signed in counterpart form, was submitted to the Planning Inspectorate prior to the appeal site visit, and I have considered it as part of my decision. Additionally, limited information is before me to substantiate the claim that the delay has caused additional expense for the applicants.

8. As the applicants opted to have the appeal determined through the written representations procedure, there was no obligation for the Council to enter into a Statement of Common Ground. Throughout the process, both parties have been able to present their arguments, which I have taken into consideration. Therefore, I find that the Council did not act unreasonably in that regard either.

9. For these reasons, I find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, an award of costs is not justified.

S Edwards

INSPECTOR