



Costs Decision

Inquiry Held on 20-22, 24, 27, 30, 31 July and 6 August 2020

Site visits made on 16 July, 7 and 16 August 2020

by Christina Downes BSc DipTP MRTPI

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

Decision date: 11 September 2020

Costs application in relation to Appeal Ref: APP/D3830/W/19/3241644 Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by RV Developments Ltd and Notcutts Ltd for a partial award of costs against Mid Sussex District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site.
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Decision

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

Reasons

2. The basis of the Applicants' case for a partial award is that the Council has not provided any credible evidence to support its contention that there is not an unmet need and that it should therefore have conceded the need case.
3. The Council did assess the need for elderly persons housing in the HEDNA Addendum, including extra care accommodation, using the SHOP@ toolkit. Although there was a dispute about whether the provision rate adopted was appropriate, this is a matter of judgement. There is no right or wrong and the higher provision rate favoured by the Applicants is neither definitive nor evidentially based. It seems to me that the Council's justification for using its favoured provision rate was adequately justified in its evidence.
4. The Council explained its approach to tenure split and why it decided to consider future need on the basis of existing tenures. I find this rather difficult to understand given that the vast majority of likely recipients of future extra care housing are owner occupiers. However, the Council's main point was that it was the headline need that was important in a land use policy response rather than whether it was for a leasehold or rented product. This is not an unreasonable position and the MSDP Examiner clearly found the evidence in the HEDNA Addendum acceptable, subject to modifications that were subsequently accepted. There is no requirement in national policy or guidance to allocate sites for specialist housing for older people in the development plan.

5. At the end of the day, the weight to be given to a material consideration is for the decision maker to decide. The Council has not denied that there is a need for extra care accommodation or that the housing provided by the appeal scheme would be a benefit. The dispute is the extent to which the need is unmet. It came down to a difference of opinion between whether the matter should be given moderate or substantial weight in the planning balance.
6. For all of the above reasons, unreasonable behaviour resulting in wasted expense as described in the Planning Practice Guidance has not been demonstrated.

Christina Downes

INSPECTOR