Costs Decision

Site visit made on 22 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Costs application in relation to Appeal Ref: APP/Y9507/W/20/3250333
The Grange, Farnham Road, Liss, GU23 6JE

- 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 Omega (After Alpha) Ltd for a full award of costs against South Downs National Park Authority.
- The appeal was against the refusal of planning permission for the erection of 5 dwellings with access, car parking and other associated work.

Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The basis for the application is that the Authority had failed to engage with the appellant during the application process, and refused the application on unjustified grounds. In particular, the revisions made to the scheme to overcome the reasons for a previous application being dismissed on appeal were not properly taken into account. The Authority also sought to pursue a reason for refusal relating to character and appearance that the Inspector in the previous appeal had found acceptable.

4. The Authority asserts it has properly considered the revisions, including the unilateral undertaking, but found them to be unsatisfactory. It made this clear to the appellant during the application process and has subsequently defended its reasons for refusal in its appeal statement. It has put forward a solution to bringing forward both Site 4a and 4, but the appellant has not been prepared to engage with the Authority or other relevant landowners.

5. It is evident from the planning history that there has been substantial discussion about this site between the Authority and the appellant, not only on this appeal but also the previous application for housing on the site and related appeal, the application for an access, and before that as part of the development of the Liss Neighbourhood Plan. I do not find there to have been a lack of engagement on the part of the Authority. They have also behaved in a

proactive and positive manner in putting forward a solution which they consider would overcome the objections to development of the appeal site.

6. As is apparent from my decision on the appeal, I consider the Authority did have sound reason for refusing the application. The revisions made to the scheme have not, in my view, overcome the concerns of the previous Inspector. Even if further discussion had taken place on the wording of the unilateral undertaking, it would not have overcome the concern about vehicles using the existing access to The Grange. The Authority was therefore justified in refusing planning permission because the scheme would prejudice the delivery of allocated housing land. This behaviour was not unreasonable.

7. I acknowledge that the Inspector in the previous appeal had found a similar layout acceptable in terms of its impact on the character and appearance of the area. However, the Authority disagreed and set out why they held their view for the revised layout. I have some sympathy for this view, and while I have reached a conclusion on this issue that is consistent with the previous Inspector, I do not think it unreasonable for the Authority to have put its case forward, which it did in a clear and concise manner. The impact of the development on the character and appearance of the area is a matter of judgement, and I consider there are arguments both for and against the appeal scheme on this issue and the Authority had substantive grounds for their reason for refusal.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR