



## Costs Decision

Site visit made on 20 November 2023

**by C Shearing BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 January 2024**

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### **Costs application in relation to Appeal Ref: APP/H2265/W/23/3316175 Grove Farm, Maidstone Road, Hadlow, Tonbridge, Kent TN11 0JL**

- 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 Hiscocks of Magnum Partnership (Brenchley) Limited for a full award of costs against Tonbridge and Malling Borough Council.
  - The appeal was against the refusal of planning permission for development described as 'as termination of use for site as 55 unit accommodation. Redevelopment to form 17 private residential dwellings following conversion of blocks A and C and demolition/reconstruction of blocks B and D with associated hard and soft landscaping'.
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### **Decision**

1. The application for costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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. The applicant considers the Council behaved unreasonably during the determination of the planning application.
3. The Council failed to determine the planning application within the initial target date, and an extension was mutually agreed to allow the Council to engage a viability consultant. The emails display a lack of cooperation and effective discussion between the applicant and that consultant, and the applicant persistently sought to engage on this matter. Nonetheless, it is apparent that the extended application period allowed some discussion of this matter via email and as such the extension of the target date to facilitate this was not unreasonable. While the matter was not resolved, this in itself does not amount to unreasonable behaviour by the Council. The Council's process for appointment of consultants is not a matter for me to consider and neither is there evidence to suggest that if the Council had approached a different consultant, the outcome would have been different.
4. Affordable housing was not a matter discussed at the pre-application stage. However, the pre-application letter was presented as an officer opinion and was not binding on the Council's final decision. As such, while it would have been frustrating for the applicant, the absence of mention of affordable housing was not unreasonable. Clarification could have been sought by the applicant and I note that the Council recommended further discussions prior to submission. Neither should it necessarily have been the role of the validation process to identify this issue. In any event, even if this matter had been resolved, it is

unlikely that the appeal process would have been avoided entirely, given the substantive issue of the Green Belt.

5. The applicant disputes several of the figures referred to in the Officer's Report relating to proposed changes in footprint and volume. However, even if the correct figures had been used it is not apparent that this would have changed the Council's conclusion regarding the impact of the proposal on openness. I find the reason for refusal relating to Green Belt to be fit for purpose and it was adequately substantiated by the Officer's Report and the Council's Appeal Statement. I also note the Green Belt issue was discussed within the pre-application letter, which advised that impact on openness was a decisive factor and that the proposal appeared to cause greater harm to openness than the existing development.
6. For these reasons, unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process has not been demonstrated. The application for costs does not therefore succeed.

*C Shearing*

INSPECTOR