The Planning Inspectorate

Costs Decision

Hearing held on 12 November 2014

Site visit made on 12 November 2014

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 22 December 2014

Costs application in relation to Appeal Ref: APP/W1715/A/14/2219572 Pylands House, Pylands Lane, Bursledon, Southampton, Hampshire, SO31 1BH

- 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 Southcott Homes Ltd for a partial award of costs against Eastleigh Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for Proposed residential development consisting of the erection of 4No. four bedroom detached dwellings with garages and car parking with use of existing access and creation of a new access following removal of commercial use and buildings.

Decision

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

Reasons

2. The application for costs was made and responded to on the basis of the Planning Practice Guidance (the Guidance). The Guidance advises that, irrespective of the outcome of the appeal, costs may only 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. Such behaviour can include a lack of co-operation and introducing substantial evidence at a late stage. In this case, the applicant considers that an award of costs is appropriate as the Council submitted substantial new evidence late in the process.

3. In terms of new evidence, this relates to information relating to the five year housing land supply. I was given a copy of this information on 4 November 2014, eight calendar days before the hearing, which was supplied in response to the appellants Hearing Statement – Planning Matters dated October 2014, which provides significant details on the appellants view on housing land supply in the borough. The appellant had an opportunity to contest the information at the Hearing, as did the Council. At the Hearing the main parties agreed that the five year supply of housing was not a determining planning factor in this appeal; with the appellant suggesting that the matter turned on character and appearance, and the relevant policies in this case relating to such issues rather than housing land supply.

4. It would have been perverse for me not to have considered this evidence, as the appellant had an opportunity to, before coming to my decision, as it was

material and updated the Council's five year housing land supply position detailed in their earlier submissions; irrespective of whether there is a supply of housing land or not. Whilst I acknowledge that there was information for both parties to consider, I do not consider it unreasonable for either to have done so prior to the Hearing. I do not, therefore, consider that the Council acted unreasonably in terms of substantial new evidence submitted late in the process in terms of housing land supply.

5. With regard to development contributions, those sought are based upon policies from the adopted development plan for the Borough, as I have established in the appeal decision. The development plan is a publically accessible document, and echoes national policy from the Paragraph 204 of the National Planning Policy Framework in terms of planning obligations. Moreover, the Council's appeal statement did include extensive information on its approach to development contributions, although it provided an update at the hearing. Whilst it would have been helpful for the detailed breakdown to have been supplied by the Council to the appellant earlier in the application process, there is no evidence that the appellant specifically sought such information. Furthermore, at the appeal stage the information was supplied in a timely manner to enable both myself and the appellant to consider its content. As such I do not find that the Council acted unreasonably in terms of the submission of evidence relating to development contributions.

6. Whilst I acknowledge that the original written representation procedure was changed to a Hearing, this was to ensure that all evidence submitted could be tested. The Planning Inspectorate has a statutory right to determine the most appropriate method for considering appeals, and in this case, given the issues involved, it decided that a Hearing was the most appropriate method in this case. I do not find that the change from procedure resulted in unreasonable behaviour by the Council.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Guidance, has not been demonstrated.

Cullum J A Parker

INSPECTOR