The Planning Inspectorate

Costs Decision

Site visit made on 25 January 2012

by R J Marshall LLB Dip TP MRTPI

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

Decision date: 5 March 2012

Costs application in relation to Appeal Ref: APP/Y3805/A/11/2164238 Former Willows First School, Irene Avenue, Lancing, West Sussex, BN15 9N3

- 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 West Sussex County Council for a full award of costs against Adur District Council.
- The appeal was against the refusal of planning permission for "outline proposals for the erection of 23 x 1, 2, 3 + 4 bed houses and flats of 1, 2 + $2^{1/2}$ storey's and ancillary external works".

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Circular 03/2009 on Costs 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.

3. The Council refused permission solely on the grounds that it was not satisfied, on the information available, that the community facility on the site that would be lost as part of the proposal is no longer required to serve the local community.

4. The decision went against the recommendation of the Council Officers. That in itself does not justify an award of costs. However, Circular 03/2009 advises that in such cases authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects.

5. The appellant made it clear at application stage that there was no evidence to suggest any loss of community facilities and that there would shortly be an improved provision. In support of this it was said that the County Council had secured significant grant funding to replace youth facilities in the area on the site of a new academy and that the project would soon be complete. It was also said that most of the community groups using the existing facility, which is in poor condition, had relocated to other premises. This amounted to substantial evidence in support of the appellant's case.

6. The Council provided no substantial evidence of its own to contest the above. In its appeal statement it said that a replacement community building could be provided as part of a redevelopment scheme. However, for reasons given in my decision this was not a point well made.

7. Other than this the Council relied almost solely on the views of those locally. Circular 03/2009 says that while Council's are expected to consider the views of local residents when determining a planning application, the extent of local opposition is not, in itself, a reasonable ground for resisting development. It goes on to say that planning authorities should make their own objective appraisal and ensure that substantial evidence is provided. No substantial assessment has been made, in the Council's case on the merits of the proposal, on the validity and weight that should be attached to local views.

8. In its response to the costs claim the Council asserts that other sites with community buildings are too far away to be readily accessible, especially by the elderly. However, given the number of alternative premises, most of which are a mile or less from the appeal site, this in itself is not substantial evidence in favour of the Council's stance.

9. I find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Adur District Council shall pay to West Sussex County Council, the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

R J Marshall

INSPECTOR