

Dear Sir/Madam

Please see below a copy of the appellant's final costs response.

Kind regards

Jo

From: BT Yahoo! Alert [mailto:dm.ball@btinternet.com]

Sent: 24 September 2014 16:08

To: Team P11

Subject: Re: Planning Inspectorate: Ref 2221887: Northern Garden of Original Westview, Church Road, SS5 4SS

Dear Joanne,

Here is my Response to RDC's costs rebuttal, shall I send by post as well?

Kind Regards,

Dudley

Appeal APP/B1550/A/14/2221887 Westview Hockley Essex.

Response to RDC's costs rebuttal

In making my initial claim I followed the PINS instructions to produce my claim in letter form. I have now addressed the Council's response in the context of the PPG Guidance paragraphs some of which RDC have quoted. I hope this response in that form assists and clarifies my position and claim.

I will make my comments with regard to the guidance notes first and then just a few points arising from the RDC document.

For the avoidance of doubt it is predicated on the fundamental premise that it seems reasonable for me as an appellant with a fully developed and evidenced case to expect as thorough an evidenced rebuttal by return in fully exercising the most profound of issues namely my claim that Green Belt policy does not prevail over the appeal site lawfully. Thus it follows that any refusal predicated on an unlawful policy is unlawful.

Para 028

In response to the MGB boundary placement error issue I have raised, RDC have not provided any let alone all the required full and detailed evidence to show how in detail I am wrong.

Failure to detail a written fully evidenced case of 'no error' rebuttal to match the investigative diligence that is evident in mine nullifies their reasoning and reasons for refusal. Their position to be able to reasonably lawfully refuse my application depends on them demonstrating at least to the same level that I am wrong and why. Unless they can prove that I have no case for error for, they act unlawfully and thus unreasonably. Their rejection of the error and history as a material consideration is done in such a baseless and dismissive way that not only does it not stand up to scrutiny it is so threadbare as a gainsay rebuttal that there is nothing to scrutinise.

Para 029

For them to be allowed to prevent the discussion of a fully evidenced error case is as far from reasonable behaviour as one can possibly get.

Para 30

The appeal process on the error issue is arguably a wasted time as they should have discussed the error issue at the application stage. Indeed I have made numerous attempts to do just that at the pre-application stage and before then always with the same intransigent response.

Para 031

There has never been a denial by RDC that the error issue was a legitimate content of previous applications because as time progressed I found more and more evidence to support my claim of error. Nor have they denied that it was a material consideration.

Para 032

Events before the appeal involve RDC being dismissive of my primary and fundamental error issue argument and their evasion of it at the application stage forced this appeal and now this costs application.

Para 047

This evasion of the issue amounts as a matter of fact and degree as a lack of cooperation to discuss fully the pivotal error evidence that this costs application now demands must take place. This can take place by a detailed assessment into the costs decision of all of my evidence for error, set against none at all in support of the 'no error' claim as stated by RDC.

My error case proves their claims of no error to be manifestly inaccurate and untrue since the 1999 Public Inquiry that tried to determine that issue then. The error evidence I have presented proves that the MGB had no lawful statutory effect over the appeal site in 1964 onwards and that the MGB applied lawfully over land not including the appeal site since before 13th June 1961. Now RDC and ECC claim they have 'lost' the 1961 plan that clearly showed the appeal site (as part of the curtilage of Westview) in the residential area of Hockley.

In the course of their repeated denials implicitly maintained in this appeal I have proven with my error case that again they still conceal relevant evidence relating to this issue including their most unfortunate 'loss' of a key statutory document the (physically very large) 1961 County Development Plan.

They have also steadfastly refused as part of their current rebuttal of my error claim to show documentarily how that in 1964 the sudden inclusion of the appeal site in the MGB was done so lawfully, given the wealth of minuted archive evidence I have investigated to establish my case and which archive yet fails to support their claim especially at this critical period of their claim. Sadly I am forced to suggest that their claimed 1964 MGB 'start date' (".....since 1964..." et al, see Mr Wood's 1999 proof) is predicated on nothing more than lies by omission.

Para 48

As regards lack of decision the LPA never tried to approach me to warn me of and explain the

reasons for their anticipated delay to a decision on this application and thus failure to reach a decision within the statutory period. No letter, no phone call, no email, and as a consequence they forced this appeal.

There was no professional communication on the error issue despite pre-application approaches by me. They did not and still do not want to engage in this matter that is a material consideration just as it was in 1999. Why? Because they cannot resist the weight of evidence I now have that proves error set against - no contrary evidence from their side.

Para 049

RDC should not be preventing or delaying development by their denial of error and consequent unlawful MGB zoning when they have not a shred of evidence of rebuttal of my case.

Para 050

Anything can be a material consideration and error in placement of a green belt boundary most certainly is unless proven otherwise. It was in 1999 at a Public Inquiry, and still is, but now with vastly greater and substantial evidence. Thus any decision by RDC to refuse to settle my error claim then any refusal reliant on the disputed MGB boundary status must be unlawful and is an unreasonable ground for refusal as they have not demonstrated how they have approached their case with due diligence by means of an evidenced based claim like my case reasonably demands

Brief comments on their text.

Para 3 - The error issue is dismissed as a primary issue by RDC yet again, without any evidence to prove this claim, and they keep being allowed to 'get away with it'. It is not one of many material considerations it is the prime issue just as it was in the 1999 appeal but now with a wealth of documentary evidence uncovered since 2012. This is blatantly dismissive behaviour by the Council because they do not want to get into what is a legitimate argument and one for which they clearly have no actual documentary evidence of rebuttal. Which is precisely why they should not be allowed to continue to evade the matter. If there is error then MGB policy cannot lawfully apply nor can the premise and conclusions of the Allocations document prevail for it was always residential land since 1961.

Para 4

Their quote from their committee report is a highlight of their procedural error on this matter for, if you seek to apply a policy from the planning policy process and the allegation is that process was originally flawed; how can you justify to continue to apply that policy without first dealing with that allegation and clarifying for once and for all demonstrating exactly how that the original process was sound and thus the policy is lawfully applicable?

To fail to do so as they do is hiding from the real issue because it has the potential to rock their local plan history to its core. That is their problem as this issue was drawn to them in increasing degrees of awareness by me since 1994 and during all that time they have denied, denied and denied it without ever presenting any conclusive proof that I am wrong and they are right. Rather they merely respond by gainsay unsubstantiated rebuttal by manipulation of their knowledge and information available to them, as I have detailed in my application supporting statement.

Para 6

Regarding Inspector Gresty's letter even he was not in possession of all the evidence I now have yet even he was unfortunately dismissive like the Council. Despite the Council producing no contrary archive evidence etc to rebut my claim such as it was then and thus defend the accuracy of the original MGB designation.

Failure of RDC and ECC to produce the 1961 plan is most unfortunate and their absence of an evidenced case of rebuttal against me is with all the evidence now available for proof of error.

Since Mr Gresty's appeal letter that they quote there has been much more evidence that deserves reasoned written analysis to prove for them that, nevertheless that I am wrong.

For instance, since making that application 00586 and the parent of this latest application, I found at the National Archives the 1957 ECC map sent to the MHLG which did not show the site in the MGB. This 57 Plan was acceptable to the MHLG. Another is Point 8 on Page 7 of the 1964 Authorised Written statement. RDC's just refuses to engage in these issues.

In 1999 RDC gladly engaged in the error argument as a material consideration because with hindsight they controlled the information and evidence coming forward enabling them to dismiss it subject to their terms of debate. Why so many years on with so much more evidence do they now try to dismiss it as not a material consideration let alone a primary one? Because the evidence is damning against them and Mr Wood's position is untenable yet they use that position yet again in this appeal.

Their failure to engage in this issue at their professional detailed level is the reason for my claim of their unreasonable behaviour. If unusually as a result of this submission the SoS considers that they should produce their detailed and evidence supported case in reply even at this late stage I am content to engage in that debate.

Finally.

In my Final Comments I have outlined the duties of a LPA on Page 9 Issue 4 in respect of S6 of the T & C P Act 1971.

John Wood (JW) a RDC senior Planning Officer was substantially responsible for the 1984 Draft Rochford L/P published in October 84, and I presume for "...in the early 1980's and one of the key tasks of the preparation of the plan process, involving extensive research and analysis, was the definition of the Inner Green Belt boundary around the various settlements of the District". Due to the fact that I have now identified three Inner G/B boundary errors it is my belief that all RDC did was to accept the ECC boundaries from the now discredited 1964/1976 ECC maps. This Rochford L/P was then published in June 86 and approved in 1988.

If RDC can prove that northern part of the site was lawfully zoned G/B and this did not happen until 1988, I now quote the now RDC Director of Development "The definitive inner MGB was not defined until the adoption of the Rochford District Local Plan in 1988". Clearly this means the northern part of the site was not G/B until 1988.

My father died on 25th Nov 1985, I was appointed legal executor to his will, as a result the District Valuer (DV) visited the site sometime during the Spring of 1986. The DV was shown the whole 1.22 acres of the site, and I informed the DV that a Residential Planning Permission (PP) had been granted over the whole site in 1962. The DV expressed interest to me as to the development potential of the site.

I have the documentary evidence to prove the following, on Friday 27th June 1986 the DV wrote to RDC enquiring into the possible development potential, clearly no one would have got to grips with the enquiry before Monday 30th June 86. JW dealt with the enquiry and I can imagine the horror that JW must have felt realising that the L/P had at that very moment been published and here out of the blue an error was identified at Westview, and further more he had failed in his duties under S6 of the 1971 Act. It is quite clear from his comments made to the DV that he did not inform the DV that the land was not as yet zoned G/B, therefore it was still Residential. The land was only taxed as garden.

JW was again part responsible for the 1993/5 Local Plan, it now is obvious that JW kept this error information to himself, and then subsequently disregarded Inspector Peter Platts 1995 approved error recommendation.

In 1999 JW gave evidence for RDC at my Planning Appeal, his evidence regarding the Planning History is totally discredited, with the benefit of hindsight it is totally fraudulent.

The 2006 Local Plan was based on all these past frauds, therefore it amazes me that RDC continue to have the temerity to claim that their Local Plan is correct, and thus continue to engage in unreasonable behaviour towards my claim of error.

Dudley Ball
September 2014

From: Team P11 <TeamP11@pins.gsi.gov.uk>
To: BT Yahoo! Alert <dm.ball@btinternet.com>
Sent: Wednesday, 24 September 2014, 8:41

Subject: RE: Planning Inspectorate: Ref 2221887: Northern Garden of Original Westview, Church Road, SS5 4SS

Dear Dudley

I confirm that we will accept your comments up until 11.59pm today.

Kind regards

Joanna Martin

Case Officer - Planning Team 11

Room 3/05a

The Planning Inspectorate

Temple Quay House

2 The Square

Temple Quay

Bristol, BS1 6PN

<http://www.planning-inspectorate.gov.uk>

Email: teamp11@pins.gsi.gov.uk

Telephone: 0303 444 5427

(GTN 7 8870) Fax: 0117 372 8443

From: BT Yahoo! Alert [<mailto:dm.ball@btinternet.com>]

Sent: 24 September 2014 08:35

To: Team P11

Subject: Re: Planning Inspectorate: Ref 2221887: Northern Garden of Original Westview, Church Road, SS5 4SS

Dear Ms Martin,

Can you please confirm that you will accept my comments relating to the rebuttal of costs up to 12 midnight on 24th Sept 2014.

Kind Regards,

Dudley Ball

From: Team P11 <TeamP11@pins.gsi.gov.uk>

To: "'dm.ball@btinternet.com'" <dm.ball@btinternet.com>

Sent: Wednesday, 17 September 2014, 15:19

Subject: Planning Inspectorate: Ref 2221887: Northern Garden of Original Westview, Church Road, SS5 4SS

Kind regards

Joanna Martin

Case Officer - Planning Team 11

Room 3/05a

The Planning Inspectorate

Temple Quay House

2 The Square

Temple Quay

Bristol, BS1 6PN

<http://www.planning-inspectorate.gov.uk>

Email: teamp11@pins.gsi.gov.uk

Telephone: 0303 444 5427
(GTN 7 8870) Fax: 0117 372 8443

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