
Costs Decision

Site visit made on 3 October 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 20th October 2016

**Costs application in relation to Appeal Ref: APP/L2630/W/16/3154754
Acorn Hollow, Chequers Road, Tharston, Norwich, Norfolk NR15 2YA**

- 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 Andrew Baldwin for a full award of costs against South Norfolk District Council.
 - The appeal was against the refusal of planning permission for a new dwelling and double garage following the sub division of the existing plot 'Acorn Hollow'.
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Decision

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

Reasons

2. The application for an award of costs was made and responded to in writing. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for costs can be summarised as follows. The Council has acted unreasonably by failing to produce evidence to substantiate its decision. The decision is vague and generalised with inaccurate assertions unsupported by an objective analysis. In particular, there was a limited assessment of the existing pattern of development in Chequers Road, which focussed on the adjoining plot. The Council also failed to acknowledge the presence and effect of the adjoining Taylor Wimpy development. Moreover, the Council failed to recognise the adoption of the Long Stratton Area Action Plan (AAP), which places the appeal site in the settlement boundary.
4. I share the view of the appellant that the Council's assessment of the existing character of Chequers Road was unduly brief and narrow in scope. The Council acknowledged the presence of the Taylor Wimpy development but it failed to properly consider the impact of this estate on the context of the appeal site and the character of the road. The Council appears to have set aside the effect of the Taylor Wimpy estate because it was approved in the absence of a five year housing land supply. This is a significant failing but, on balance, I do not consider it amounts to unreasonable behaviour.
5. This is because defining the site's context, and the effect of the proposed development upon this, are matters of professional planning judgment. The

- Council objectively assess the pattern of development to the south of the appeal site and in my view correctly identified that it is more open and spacious. Thus, the Council were entitled to reach the view it did, that the appeal site, and any subsequent development, should continue to primarily take its reference from this pattern of development.
6. Although I consider it to be based on a flawed premise, the Council were also entitled to draw a distinction between the dense and somewhat discordant suburban character of the Taylor Wimpy estate and the more spacious character of the appeal site. I acknowledge that the Council could have articulated this much better, should not have relied on its analysis being 'self-evident' and should have taken the opportunity to expand its argument through its appeal submissions.
 7. Nevertheless, from considering the Council's case in its entirety, it is apparent that its concerns lay in the potential for the new house to have a cramped appearance when viewed alongside the more spacious development immediately to the south, including Acorn Hollow. These are legitimate planning concerns. The Council also framed its argument within the context of relevant development plan and national policy. Whilst I do not ultimately share the Council's concerns in respect of the impact of the proposed house, I do not consider that the concerns were so irrational and lacking in evidenced that they amount to a substantive failure justifying an award of costs.
 8. In respect of the proposed garage, the Council's assessment was substantive, clearly articulated and addressed the difference between the appeal scheme and garage approved to the front of Acorn Hollow. As such, the Council's assessment of the proposed garage was not unreasonable.
 9. The Council relied on the Planning Officer's delegated report as its appeal statement. This was submitted without an update, in particular the subsequent adoption of the AAP. Rather than a mere omission as opined by the Council, this is a noteworthy error that was only corrected by virtue of the appellant's application for an award of costs. However, I share the view of the Council that this has not had a significant impact on the outcome of the appeal. This is because the Council are currently unable to demonstrate a five year housing land supply and therefore the settlement boundary, whilst a material consideration, is out of date.
 10. Whilst finely balance, my overall conclusion is that the Council did not act unreasonably in concluding that the appeal scheme would harm the character and appearance of the area. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not be demonstrated.

Graham Chamberlain, INSPECTOR