
Costs Decision

Site visit made on 30 January 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 17 February 2017

Costs application in relation to Appeal Ref: APP/T3535/W/16/3161181 Land adjacent Hall Cottage, Church Road, Henstead, Suffolk NR34 7LD

- 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 Carat Developments Limited for a partial award of costs against Waveney District Council.
 - The appeal was against the refusal of planning permission for a detached dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) states that costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
 3. The partial costs application is based on two main grounds; firstly that issues relating to the sustainability of the location were not raised during the application, and secondly that a similar nearby case was considered by the same Council officer and approved, and therefore the Council has not determined similar cases in a consistent manner.
 4. In their report for the September 2016 planning committee the Council Officer states that the proposal was due to be heard at the April committee, but was postponed to allow the applicant to submit further information, which they duly did. Following receipt of this, and other information, the Council Officer concluded that the case for refusal on the grounds of public transport would be weak, and also noted that the case is 'borderline' in their overall recommendation for approval. The Council Committee decided to refuse the application, as is their right, viewing the evidence submitted in a different way. The issues were raised and dealt with during the consideration of the application, allowing time for the applicant to respond and I do not consider that the Council have behaved unreasonably on this matter. Furthermore, any such costs incurred at this stage occurred during the determination of the planning application.
 5. The case cited at Hulver Street was approved in mid July 2015, roughly 2 months before the subject appeal was decided. The Council have explained that during this period further information came to light about the provision of
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local bus services, and refer to a recent appeal decision on an adjacent site. I agree that the change in services described constitutes a material change which adversely affects the sustainability of the local area and it is reasonable for the Council to take such a change into account in their decision.

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

Jon Hockley

INSPECTOR