
Costs Decision

Site visit made on 13 June 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 3rd July 2017

Costs application in relation to Appeal Ref: APP/P1560/W/17/3169862 Homefield, Church Road, Brightlingsea, Essex CO7 0QT

- 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 Lynch (South East Developments) for a full award of costs against Tendring District Council.
 - The appeal was against the refusal of planning permission for construction of 4 No bungalows and garages on land to rear of Homefield including a new garage to Homefield.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may 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. I am not persuaded that the Council acted unreasonably in preventing a development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations. The Council were presented with the issues relevant to this proposal and the officer recommendation made it clear that the tilted balance required by paragraph 14 of the National Planning Policy Framework weighed in favour of approval. However, the Council exercised its quite reasonable democratic prerogative to find the balanced weighed in greater favour to the conflict found with its development plan policies.
4. I consider the Council had adequately substantiated its reasons for refusal. The proposal does conflict with the prevailing pattern of frontage housing and extends housing in a backland arrangement beyond the defined development boundary. It was not unreasonable for the Council to have found this to have a detrimental impact on the character of the area, despite the appeal finding the harm to be more limited and to be outweighed by other considerations.
5. Neither do I find it unreasonable for the Council to have found harm in a new access running between two existing dwellings and very close to side facing windows. Even without any technical acoustic evidence I find it quite reasonable for the Council to have concluded such an arrangement to be unsatisfactory and likely to result in noise and disturbance. That the appeal decision found that the moderate harm to the living conditions at Homefield

would also be outweighed by the wider benefits of this proposal would not infer that the Council had acted unreasonably in respect of its second reason for refusal.

6. Although not subject to detailed objective analysis the Council's reasons for refusal were quite clearly evident to me. Because of this I cannot find the Council to have resorted to relying upon vague, generalised or inaccurate assertions about the appeal proposals impact, which I find to be sufficiently supported by objective analysis. The environmental noise assessment produced subsequent to the appeal introduced new evidence. However, the appeal decision found the issues surrounding this proposal to be quite finely balanced. Therefore, I am not persuaded this evidence would have been sufficient in finding the Council to have acted unreasonably in not conducting a review of its decision rather than carrying on to contest the appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Jonathan Price

INSPECTOR