
Costs Decision

Site visit made on 31 January 2017

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 10 February 2017

Costs application in relation to Appeal Ref: APP/H0738/W/16/3159756 Land South of Cayton Drive, Thornaby TS17 0HD

- 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 Mandale Construction North Ltd for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for reserved matters approval (appearance, landscaping, layout, access and scale) for the erection of 45 No. dwellings, access from Cayton Drive and ancillary works pursuant to outline planning consent ref: 15/1466/OUT.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant submitted that the Council had acted unreasonably in failing to determine the planning application for a number of reasons. Firstly that the Council failed to comply with the requirement of paragraph 187 of the National Planning Policy Framework (the Framework) in that they should look for solutions rather than problems and seek to approve applications for sustainable development where possible. Secondly that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national planning policy and any other material considerations. Thirdly the applicant contends that the Council has made generalised or inaccurate assertions about the proposals impact, in particular with regard to the effect on the living conditions of neighbouring occupiers, unsupported by objective analysis.
 4. I am aware that the Planning Committee members deferred the determination of the planning application twice in order to seek amendments. It appears to me that the Committee were giving the applicant chance to address areas of concern rather than refusing planning permission straight away. Whilst I can understand the applicant's frustration that this happened twice delaying the determination of the application, I consider that in so doing the Council were complying with paragraph 187 of the Framework, in that they were trying to
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find solutions to the issues raised. I therefore consider that in this regard the Council acted reasonably.

5. In dismissing the appeal I have agreed with the Council's view that the scheme would be unacceptable in terms of its impact on the living conditions of the occupants of neighbouring dwellings. It is therefore evident that the Council did not prevent or delay development that clearly should have been permitted.
6. Following the submission of the appeal, the members resolved that they would have been minded to refuse the application on the grounds of the impact on the amenity of existing and proposed residential properties. Clearly the Members are not bound by the recommendation of their Officers but in being minded to refuse the application must put forward evidence to support their position.
7. In their Statement, the Council provided detailed reasoning to support their view. Analysis of separation distances between existing and proposed dwellings was provided in particular with regard to existing dwellings with rear extensions. Compliance with the Council's Sustainable Design SPD was also assessed. I therefore consider that the Council clearly substantiated their suggested reason for refusal. They did not rely on vague or generalised assertions with regard the schemes impact and have therefore not acted unreasonably in this regard.
8. In conclusion I consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for award of costs is refused.

Helen Hockenhull

INSPECTOR