



Costs Decision

Site visit made on 15 August 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2019

Costs application in relation to Appeal Ref: APP/G2713/W/19/3228750 Stokesley Used Car sales, Tame Bridge, Stokesley TS9 5LQ

- 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 Da Silva for a full award of costs against Hambleton District Council.
 - The appeal was against the refusal of planning permission for a change of use from car sales office to dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The applicant is of the view that, in refusing planning permission, the LPA have not acted in a reasonable or professional manner. They submit that members of the Planning Committee gave no meaningful discussion or consideration of the facts surrounding the proposal and instead offered a 'monologue' of uncomplimentary comments and irrelevant points to discredit the proposal and the applicant. Consequently, he is of the opinion that the proposal complies with the development plan and that members should have approved the application in line with the Planning Officer's recommendation for approval.
4. In response the LPA state that there is no requirement for members to agree with the content of their Officer's report and that differing conclusions can be reached based on differing views over the application of policy or the weight of material considerations. The LPA consider that the Planning Committee gave due consideration of the application with a clear policy based reason for refusal provided by members and subsequently recorded on the decision notice.
5. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
6. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. The LPA has provided an excerpt from the minutes of the Planning Committee held on 4 April 2019 which detail the Committee's consideration of the appeal

proposal. There is no record of any debate or discussion over the merits or otherwise of the appeal proposal although the resolution is recorded as: **"PERMISSION REFUSED** because the development failed to achieve a high quality design". I find this to be unacceptably vague and lacking any substance. It is also inconsistent with the reason for refusal recorded on the LPA's formal Notice of Decision. I can therefore see no evidence that members of the Planning Committee undertook an objective assessment of the proposal based on sound planning grounds.

8. I also find the LPA's formal reason for refusal, as set out on its Notice of Decision, to be rather vague and lacking any detail as to why the design of the proposal fails to meet the high standards of design as required by the development plan. While this is expanded upon in its Statement of Case, I find the LPA's assertions of the harm offered by blank side elevations, flat roofed rear extensions and the use of matching render, in this case, to be unsubstantiated.
9. Members did not clearly demonstrate why the proposal would be harmful or provide any plausible reasoning to substantiate their decision to withhold planning permission. It also appears to me that members have failed to give adequate consideration to the surrounding context of the appeal site and the existence of other flat roofed extensions, blank side elevations and the mixed use of brick and render finishes on nearby properties, all of which contribute to the character of the local area.
10. I find that, having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission, in the absence of any plausible reasoning and by advancing vague and irrational assertions about the proposal's impact, therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG. As a direct result, the applicant has been faced with the unnecessary expense of lodging the appeal.
11. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hambleton District Council shall pay to Mr Da Silva, the costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to Hambleton District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Jeff Tweddle

INSPECTOR