The Planning Inspectorate

Costs Decision

Site visit made on 2 September 2021

by Graeme Robbie BA(Hons) BPl MRTPI

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

Decision date: 10 September 2021

Costs application in relation to Appeal Ref: APP/H0738/D/21/3279055
9 Bridgewater, Leven Bank, Yarm TS15 9BF

- 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 David Whaite for a full award of costs against Stockton-on-Tees Borough Council.
- The appeal was against the refusal of planning permission for the erection of a 2-metre high boundary wire mesh fence to side.

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) 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. The application for costs should clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. It also states that parties in appeals normally meet their own expenses.

3. The reason for refusal as set out in the decision notice is complete, precise, specific and relevant to the application. Both it, and the Council's officer report, clearly set out the Council's reasoning for reaching the conclusion that they did. Whilst the exact 'planning' status of the other enclosures referred to remains uncertain, the Council nevertheless clearly considered the proposed fence in the context of those enclosures, concluding that the proposal would appear out of character and providing a comparison between the proposed fence and other enclosures.

4. As set out in my decision, I do not agree with the Council's conclusion regarding the effect of the proposed fence on the character and appearance of the surrounding area. However, in reaching my decision it does not automatically open the Council up to an award of costs when the reasoning is clearly set out in the officer report and in the refusal reason.

5. I am satisfied that within the constraints of the expedited appeal process the Council has provided sufficient evidence (in their officer report) to substantiate and justify the reason for refusal and, in exercising their planning judgement as to the effect of the proposal upon character and appearance, have sufficiently expressed their reasoning for doing so. As to the determination of similar cases in a consistent manner, I have not been made aware of any other similar

planning applications determined by the Council for comparative purposes although I have noted the presence of other fences and means of enclosure nearby.

6. There is no evidence before me to demonstrate that the Council considered matters relating to the public safety function of the proposed fence in preventing access across the appellant's land to the riverbank in reaching their conclusion on the application for planning permission. However, as I have set out in my decision this matter was not determinative in my consideration of the matter. Nor, even if I were to conclude that the Council had acted unreasonably in so doing, and having considered the appellant's submissions, am I persuaded that the appellant has incurred unnecessary expense in this respect.

Conclusion

7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

G Robbie

INSPECTOR