



Costs Decision

Site visit made on 5 January 2022

by J Hunter BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2022

Costs application in relation to Appeal Ref: APP/W0734/W/21/3284713 20 Fountains Drive, Acklam, Middlesbrough TS5 7LJ

- 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 Ruby Housing for a full award of costs against Middlesbrough Borough Council.
 - The appeal was against the refusal of planning permission for the construction of detached dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. In this instance, the application essentially relies on the fact that the Council's Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different course of action without adequate reason to do so.
4. The Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. In this case, I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement in respect of the effect of the development upon the character and appearance of the surrounding area. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. The Planning Committee meeting minutes demonstrate that the Council Members objectively assessed the proposal and had due regard to the relevant material considerations of the case. Consequently, the Council Members substantiated the reason for refusal by undertaking an objective analysis.

7. In determining the appeal, I agreed with the Council Members assessment and concluded that the proposal would cause unacceptable harm to the character and appearance of the surrounding area. Therefore, I cannot agree that the Council has relied upon vague, generalised or inaccurate assertions about the proposal's impact.

Conclusion

8. For the collective reasons outlined above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

J Hunter

INSPECTOR