



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:

Costs application in relation to Appeal Ref: APP/V0728/W/21/3287390 Land south of Middlesbrough Road, Guisborough TS14 8JT

- 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 D Donaghey for a full award of costs against Redcar & Cleveland Borough Council.
 - The appeal was against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
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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 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. It also states that examples of unreasonable behaviour by local planning authorities include not determining similar cases in a consistent manner. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicants consider that the Council has not determined similar cases in a consistent manner citing the previously approved development at the same site which was of a similar size and type and where planning permission was allowed. Furthermore, the applicants claim 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 PPG 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 appeal documentation demonstrate that the Council Members objectively assessed the proposal and had due regard to the relevant material considerations of the case. Consequently, the Council substantiated the reason for refusal by undertaking an objective analysis.
7. I note the applicant's reference to the Council's assessment of character and appearance on a holiday park development nearby however, the two proposals are not comparable and nonetheless, I have not been provided with sufficient detail to allow me to compare the reasoning behind the decisions. In any event, impact on character and appearance and the weight to be attributed to various other materials considerations is a matter for the decision maker and is largely a matter of fact and degree. It will be seen from my decision letter that I have drawn different conclusions from my assessment of the proposal, concluding that the development would not have a harmful effect on the character and appearance of the area.
8. Notwithstanding that I came to different conclusions to those of the Council on the main issue in my Decision, I consider that the Council objectively evaluated and considered the merits of the proposal, having regard to the relevant policies within the development plan and relevant guidance within the National Planning Policy Framework. Furthermore, in exercising its planning judgement, the Council adequately reasoned and substantiated its reasons for refusal; and demonstrated on planning grounds why, in its opinion, the proposal was unacceptable. As such, I consider that the Council did not behave unreasonably in its evaluation and determination of the application.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

J Hunter

INSPECTOR