
Costs Decision

Site visit made on 10 January 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Costs application in relation to Appeal Ref: APP/H0738/W/22/3308417 Land adjacent to The Poplars, Greens Lane, Stockton-on-Tees TS18

- 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 Sean Brockbank for a partial award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for the erection of detached dormer bungalow.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. The applicant's claim is that during the course of the planning application the Council did not request information relating to the third reason for refusal, relating to nitrate neutrality, and thus they believe that it acted unreasonably in this regard.
4. The PPG makes clear that costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
5. Details of the correspondence between the Council and the applicant during the planning application process are scant. I cannot fully ascertain whether or not the issue of nitrate neutrality was communicated to the applicant, be that verbally or in writing. I do however note the claims of the applicant that at no point during the application were they asked to address the issue of nitrate neutrality.
6. Nevertheless, even had the Council communicated this issue, due to fundamental concerns in relation to the design of the development and its relationship with the protected trees, on-going discussions in respect of nitrate neutrality would not have overcome these other concerns. The

application would have still been refused and the applicant would have been left with the option of pursuing an appeal.

7. Moreover, the issue of nitrate neutrality was included within the Council's Officer Report and the reason for refusal makes reference to development plan policies. The Council also expanded upon this issue as part of the appeal process. It is therefore clear that this is a main issue of the proposal, to which the applicant has had ample opportunities to respond.
8. Taking all the above into consideration, I therefore conclude that it has not been demonstrated that the Council behaved unreasonably which resulted in unnecessary or wasted expense. The costs application should therefore fail and no award is made.

H Ellison

INSPECTOR