
Costs Decision

Hearing Held on 11 July 2023

Site visit made on 10 July 2023

by S Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Costs application in relation to Appeal Ref: APP/H0738/W/23/3316364 Mount Leven Farm, Leven Bank Road, Yarm

- The appeal 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 Mandale Homes for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of a planning application for Construction of 215 no dwellings, together with associated landscaping and external works.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 or wasted expense in the appeal process.
3. The PPG sets out a number of examples where a local planning authority are at risk of an award of costs. These include preventing or delaying development which should clearly be permitted having regard to the development plan, national policy and any other material planning considerations, the failure to produce evidence to substantiate each reason for refusal and vague, generalised or inaccurate assertions about the impact of a proposal which are unsupported by any objective analysis.
4. The applicant has submitted that their fundamental ground for claim is that the Council have failed to produce appeal evidence which provides a respectable basis for the refusal. They refer to the officer's recommendation of approval to the Planning Committee on three occasions, and consider that the Council's case fails to address their officer's assessments and does not explain why they disagree with their conclusions. As such, they consider there has been a flawed interpretation of Stockton-on-Tees Local Plan policies SD3 and H4.
5. The Council's response submits that it is well established that Members are entitled to make decisions contrary to the recommendations of their planning officers. In this particular instance, the basis of the refusal of the application are subjective reasons to which Members attributed different weight to those of their planning officers. The reasons are based on Local Plan policies and on material planning considerations. Their response states that producing

objective evidence is difficult as Members made an assessment drawing from their own observations about the site. Members of the Planning Committee attended the hearing to substantiate their reasons for refusal.

6. It will be seen from my appeal decision that I did not agree with all of the Council's concerns, nevertheless I have dismissed the appeal for the reasons given. The Council's case as set out in their statement and at the hearing is based on local and national planning policies together with the local knowledge of Members and local residents. Their case is reasonably entitled to be attributed weight.
7. My decision sets out that I disagree with the applicant's case on reason for refusal 1 in relation to the suitability of the housing in meeting the needs of older people, and I agree with the Council's case that the lack of age restriction and propensity of two storey family houses would not specifically meet the needs of the ageing population. The Council's case has been adequately substantiated and makes appropriate reference to Local Plan policy H4.
8. In respect of reason for refusal 2 and highway safety, following my site visit I understand the Council's concerns regarding driver behaviour on this stretch of road, backed up by the anecdotal evidence of local residents. It is therefore reasonable that they presented a case in this respect. Nonetheless the Council have failed to provide technical evidence that the roundabout is not fit for purpose. I have agreed with the applicant that it has been adequately demonstrated that the use of the Mount Leven roundabout to serve the proposed development would not have a severe impact on road safety. However this relates to motor vehicles only. In respect of the associated pedestrian and cycle links to the surrounding network, these have not been appropriately secured in providing acceptable and sustainable connections and the Council's case has been adequately substantiated in this respect. On both points, I do not consider that the applicant would have come to significant wasted expense in defending this reason for refusal over and above the information already submitted for the planning application.
9. The Council's case on reason for refusal 3 relating to character and appearance is somewhat vague and they have relied on the LVIA assessment of harm. It is acknowledged that harmful effects are inevitable given that the currently undeveloped land would be urbanised. However I have agreed with the Council's case that two storey dwellings would result in additional harm over and above the previous permission for single storey dwellings, and I have found that this would be amplified by their poor design which fails to reflect local distinctiveness. Matters relating to effects on character and appearance are somewhat subjective and I do not find that the Council has been unreasonable in coming to this decision, albeit their case was rather thin on the ground.
10. I have found reason for refusal 4, relating to green space, to be vague and unsubstantiated by the Council. I have agreed that there would not be conflict with the purposes of the green wedge and policy ENV6 in this respect. However, the proposals would affect its character and appearance as considered for the previous main issue, and its use as a country park which is secured by the s106. The matter of the inclusion of the footbridge in the s106 was not a reason for refusal nonetheless it will be seen from my decision that I have considered the applicant's case in this respect and agree that this

particular obligation does not fully meet the tests. Nonetheless, limited evidence was submitted on this matter by both parties and I do not find that the applicant has come to wasted expense in pursuing this matter.

11. Having regard to the above and based on the evidence before me, I consider that the appeal was necessary and that the Council's evidence, whilst somewhat vague on some of the issues, was sufficient for me to make an informed decision. Members were entitled to make their own judgements based on the evidence before them and considering their local knowledge and the representations made by local residents. The individual circumstances of the proposal necessitated assessment on its own merits given the subjectivity of the issues in dispute and judgements involved. The applicant did not therefore suffer wasted expense in pursuing the appeal.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I therefore determine that the application for a partial award of costs should fail and no award is made.

Susan Hunt

INSPECTOR