



## Costs Decision

Site visit made on 12 April 2010

by **Michael R Moffoot** DipTP MRTPI  
DipMgt MCMI

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

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Decision date:  
7 May 2010

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### Costs application in relation to Appeal Ref: APP/H0738/A/10/2121375 Land adjacent to 1 Manor Place, Fairfield, Stockton-on-Tees TS19 7HF

- 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 M Buttery for a full award of costs against Stockton-on-Tees Borough Council.
- The appeal was made against the refusal of planning permission for demolition of existing derelict community hall and erection of 3 terraced houses and 1 pair of semi-detached houses.

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#### Decision

1. I refuse the application for an award of costs.

#### Reasons

2. Circular 03/2009 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.
  3. Although the advice and recommendations of officers were not accepted by the Planning Committee in this case, paragraph B20 of the Annex to Circular 03/2009 indicates that planning authorities are not bound to do so: "*However, if officers' professional advice is not followed, the Circular states that authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.*"
  4. The impact of the proposed development on the character and appearance of the area requires a subjective judgement to be exercised; a matter acknowledged by the applicant. Paragraph B18 of the Circular notes that where an appeal turns on such an assessment, it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the development, whereas vague, generalised or inaccurate assertions about a proposal's impact unsupported by any objective analysis are likely to result in an award of costs.
  5. I am satisfied that the Planning Committee exercised such a judgement, and reached its decision against a background of detailed officer's reports and consultation responses, including the views of local residents. Although I have reached a contrary view to the Council on the merits of the case, in my opinion the authority provided realistic and specific evidence in its statement to support its reason for refusal, which is based on reasonable planning grounds.
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6. In particular, the Council, by reference to the development plan and other material considerations, adequately demonstrated how it considered that the proposal would result in a poorly designed and cramped form of development with an incongruous area of open space that would be out of character with surrounding housing, and would thus compromise the character and appearance of the area.
7. I have no reason to believe that the Planning Committee's decision was politically motivated, and I am satisfied that the Members considered there were reasonable planning grounds for refusing permission that were substantiated in the Council's statement. Whilst the reason for refusal erroneously refers to the position of the open space, this did not disadvantage the applicant, who corrected the error in his appeal statement. It did not therefore incur unnecessary or wasted expense for him.
8. I acknowledge that the refusal of permission may have delayed development of the land by the applicant, but paragraph A26 of the Circular advises that awards cannot be extended to compensation for indirect losses, such as those which may result from delay in obtaining planning permission via the appeal process.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

*Michael R Moffoot*

Inspector