



The Planning
Inspectorate

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Your Ref:
Our Ref: APP/H0738/D/11/2148619
Date: 5 October 2011

Dear Madam

**LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 322
SITE AT 1 CHEDWORTH COURT, INGLEBY BARWICK, STOCKTON-ON-TEES
TS17 5GL HOUSEHOLDER APPEAL SERVICE – APPEAL BY MR PRADEEP
ORAKKAN – APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector's appeal decision of 27 April 2011. This dismissed the appeal against the decision of Stockton-on-Tees Borough Council for a two storey side extension and bedrooms above existing garage on land described above. This letter deals with your client's application for an award of costs against the Council.
2. The application is dated 15 March 2011 and the Council was given an opportunity to respond in a letter dated 28 April 2011 from The Planning Inspectorate, but no response was received. As the costs representations have been made available to the parties, it is not proposed to summarise them.

DECISION

3. The costs application is refused and no award of costs is being made.

REASONS

4. CLG 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 another party to incur or waste expense unnecessarily. Paragraphs B15 to B29 of the Circular are considered particularly relevant.
5. The evidence from the file, including the Inspector's appeal decision and the written correspondence, has been examined in accordance with paragraph A42 of the Circular.
6. Advice in paragraph B20 of Circular 03/2009 says planning authorities are not bound to accept the recommendations of their officers. However if advice is not followed, authorities need to show reasonable planning grounds for taking a contrary



decision and produce relevant evidence on appeal to support the decision in all respects.

7. The Council's substantive reason for refusal was that the extension would have an overbearing and overshadowing impact and be detrimental to the amenities of the adjoining occupier. Although this was contrary to the Planning Officer's recommendation, the impact a development may have on surrounding properties is unique to the particular circumstances of each case and properly needs to be assessed by visiting the site. The Secretary of State is satisfied that the Council did not go against their professional officer's recommendation lightly and did so only after visiting the site for themselves in order to judge the effect of the proposed development. It is material this is ultimately a judgement with which the Inspector agreed.

8. The Council was duty bound to take the views of objectors into account as a material consideration when it made its decision. It was the Applicant's choice not to attend or otherwise address the Committee as, even if he was busy due to work commitments, he could have appointed a representative to speak on his behalf at the meeting. The weight to be given to an objection is properly a matter for the decision maker.

9. In these circumstances, in the Secretary of State's view, the Council did have reasonable planning grounds to refuse the scheme and Local Plan Policy HO12 provides a policy basis to underpin the reason for refusal. Conversely this is not a case where the proposed development should clearly be permitted having regard to the development plan, national policy statements and any other material considerations. It required a judgement to be made. The officers argued it one way, Members of the Planning Committee saw it differently but that is within their gift. They are elected by local residents and, in due course, have to answer for their decisions.

10. I appreciate the Inspector gave a reason in paragraph 11 of the appeal decision as to why the proposed development would not harm the character and appearance of the property. However there was just a single reason for refusal of which this was a minor component. The Council has, in substance, justified its stance in refusing the application.

11. For these reasons, the Secretary of State finds that unreasonable behaviour resulting in wasted or unnecessary expense, as described in Circular 03/2009, has not been demonstrated. The application is therefore refused.

12. There is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for a judicial review. This must be done promptly.

13. A copy of this letter has been sent to Stockton-on-Tees Borough Council.

Yours faithfully

Pete Drew

PETE DREW
Authorised by the Secretary of State
to sign in that behalf