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## Costs Decision

Site visit made on 18 July 2014

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 18 September 2014**

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**Costs application in relation to Appeal Ref: APP/H0738/A/14/2218165  
Former English Martyrs Roman Catholic Church Site, Hardwick  
Road/Whessoe Road, Stockton-on-Tees, Cleveland, TS19 8LB**

- 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 William Gate for a full award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the refusal of planning permission for new car parking on a vacant site.
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### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The application for costs was made and responded to on the basis of Circular 03/2009, which has been superseded by national Planning Practice Guidance 2014 (the Guidance). However, having regard to the submissions put to me, I am satisfied that no party's interests will be prejudiced by me judging the application and response against the Guidance.
3. The Guidance advises that irrespective of the outcome of an appeal, an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Whilst the Guidance sets out a series of examples of behaviour whereby either a procedural or substantive award of costs may be justified, neither list is stated to be exhaustive. The application for costs is timely, and as the application and response by the Council have been made in writing, I shall not repeat them in any great detail.
4. The recommendation in the Council's committee report was that planning permission should be granted. It is reasonably held that local planning authorities are not bound to accept the recommendations of officers or the advice or representations of consultees. However, in circumstances where officers' professional advice is not followed, local planning authorities will need to show reasonable planning grounds for taking a contrary decision. Evidence must be provided to substantiate each reason for refusal with reference to the development plan and all other material considerations.
5. The Council's reasons for refusal set out concerns over the impact of the proposed development on highway safety and the living conditions of nearby residents, having particular regard to an increase in traffic and the use of the

car park itself. The Council has concentrated on a subjective interpretation of the main issues, and has not produced any technical evidence or objective analysis which would substantiate the reasons for refusal in all respects. As a consequence, the Council has not shown reasonable planning grounds for reaching a contrary decision on matters pertaining to highway safety for the proposed development which, in the absence of an objection from the Highway Authority, the applicant could reasonably have expected to have obtained support for the proposals on highway grounds. In respect of the impact on the living conditions of nearby occupiers, I acknowledge that this is a more subjective matter of judgement, but it was incumbent of the Council to provide realistic and specific evidence about the impact of the proposed development, rather than generalised assertions about the proposal's impact.

6. Whilst I note that the reasons for refusal were not couched in terms of the policies of the development plan or other material considerations, the Council has identified specific policies of the development plan and sections of the National Planning Policy Framework which they considered that the development would be contrary to in their appeal statement. Nevertheless, despite this a respectable basis for the Council's reason for refusal has not been provided.
7. The Council has acted unreasonably in failing to produce sufficient evidence to support the reasons for refusal in taking a decision contrary to the recommendations of professional officers. This has caused the applicant to incur costs in pursuing the appeal, and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated and that a full award of costs is justified.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stockton-on-Tees Borough Council shall pay to Mr William Gate the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Stockton-on-Tees Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*M Seaton*

INSPECTOR