
Costs Decision

Site visit made on 24 October 2014

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 21 November 2014

Costs application in relation to Appeal Ref: APP/H0738/A/14/2223613 Iris Gardens, Thorpe Thewles, Stockton on Tees, Cleveland, TS21 3HY

- 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 Michael Newberry for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for a replacement slate roof covering to an existing agricultural building, and the installation of rooflights.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that 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. 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.
3. The applicant contends that the Council has not behaved impartially in reaching its decision, has not produced evidence to substantiate its refusal, and could have dealt with the proposals by way of a minor material amendment. In respect of the impartiality of its decision-making, the Council has highlighted the procedures which it followed in making its decision, including the use of senior officers to review and countersign individual officer recommendations on planning decisions made under delegated powers. However, the applicant has not provided me with any specific or detailed evidence as to how the alleged impartiality has manifested itself in this decision, and I can see no sign from the evidence submitted of the Council acting impartially and as a consequence, unreasonably.
4. In respect of the failure of the Council to substantiate the reason for refusal, I have had regard to the Council's delegated report and reason for refusal. The officer report has clearly presented the planning merits of the application, and has highlighted the Council's specific concerns regarding the development. The report has provided an assessment of the impact of the proposed development with reference to the policies of the Development Plan, and the reason for refusal has also provided a detailed summary of the decision. Despite reaching

a different conclusion on the planning merits of the proposed development, I am satisfied that the reason for refusal has been fully and appropriately substantiated by the Council during the planning application. I have also had regard to the appellant's contention that the absence of an appeal statement from the Council indicates a lack of a valid reason or meaningful evidence to substantiate the refusal. However, in light of the detail set out in the officer report and reason for refusal, I am not persuaded that this amounts to compelling evidence of this argument.

5. With regards to whether or not the proposals should have been assessed as a minor material amendment, as I have set out in the main appeal decision this is not a matter for me to determine in the context of an appeal made under S78 of the above Act. Nevertheless, I have had regard to both the applicant's and Council's reported pre-application correspondence on whether or not it would have been appropriate to make an application as a minor material amendment. However, it is my conclusion that irrespective of the Council's advice to the applicant, it would have been most appropriate for the applicant to seek a resolution to this matter by applying for a determination under sections 191/192 of the above Act. In this respect, no evidence has been placed before me that the applicant has sought such a determination.
6. On the basis of the above conclusions, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
7. For the reasons given above, I refuse the application for an award of costs.

M Seaton

INSPECTOR