



## Costs Decision

Site visit made on 30 June 2020

by **Matthew Birkinshaw BA(Hons) MSc MRTPI**

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

Decision date: 4 August 2020

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### **Costs application in relation to Appeal Ref: APP/H0738/W/20/3249311 2 High Newham Road, Stockton-on-Tees, TS19 8RQ**

- 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 C G Robinsons & Sons for a full award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the refusal of planning permission for the erection of 1no. A1 (barber shop) unit.
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### **Decision**

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

### **Reasons**

2. The National Planning Practice Guidance states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Awards against a local planning authority may be procedural, relating to the appeal process or substantive, relating to the merits of the appeal.
  3. The application is made on the grounds that the Council delayed development which should have been approved having regard to the requirements of the development plan. It is also claimed that the Council failed to produce evidence to substantiate their reason for refusal, which was not supported by any objective analysis.
  4. The Planning Officers' report states that further retail provision would not be suitable in the High Newham Court Local Centre because it would compete with existing vacant units, making it harder to attract tenants. The Council's Statement expands upon this point and suggests that further growth is not in demand within the centre, and that a barber's shop would not offer anything different to what is already available at High Newham Court.
  5. Whilst the Council's concerns regarding the health of the local centre are justified, no robust information has been provided to substantiate how or why a new retail unit of the size, format and catchment proposed would undermine its vitality and viability. For the reasons set out in my appeal decision, I agree with the appellant that the proposed retail unit would be a positive addition that would stimulate confidence and investment in High Newham Court. In principle, the location of the proposed development, within a local centre, is entirely appropriate for a barber's shop, which is intended to provide a service to the surrounding local community.
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6. The Council's main concern is that the addition of a new unit would compete with vacant premises in the centre, preventing their future reuse. However, based on the policies referred to me by the parties, there is nothing in the adopted development plan which requires decision-makers to consider competition between existing units when considering the principle of new retail development *within* a centre. Instead, *Stockton Local Plan* Policy EG3 explicitly directs new retail uses to defined centres, subject to the scale and catchment of the proposal and site suitability. In this case, the information submitted with the appeal lacks any objective analysis to clearly demonstrate why the site would be unsuitable for a modest, single-storey retail unit, or why the scale and catchment of the proposal would undermine the health of the centre, as required by Policy EG3.
7. In summary therefore, the Council has failed to adequately and robustly demonstrate how or why the provision of a new retail unit, within the local centre, would undermine the vitality and viability of High Newham Court. The vague, unsupported assertion that another barber's shop would harm the vitality and viability of the centre has caused the applicant to incur unnecessary and wasted expense dealing with this matter on appeal. As a result, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the National Planning Practice Guidance, 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 as amended, and all other powers in that behalf, IT IS HEREBY ORDERED that Stockton-on-Tees Borough Council shall pay to C G Robinsons & Sons the costs of the appeal proceedings in so far as they relate to addressing the Council's reason for refusing planning permission, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly 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.

*Matthew Birkinshaw*

INSPECTOR