



Costs Decision

Site visit made on 1 February 2021

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Costs application in relation to Appeal Ref: APP/H0738/W/20/3262557 Land south of Thornaby Football Club, Acklam Road, Thornaby

- 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 Carlington Development Ltd for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for '*Residential development of up to 26 dwellings*'.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
3. The Council's Officer recommended that planning permission be granted for the proposed development, and indeed it was previously approved under delegated powers. A judicial review required the application to be re-determined by the Planning Committee. The Committee Members' took a different view and refused the application for three reasons. However, the decision on the main issue of character and appearance is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
4. The reasons for refusing the proposed development have been adequately substantiated in the Council's case. They are precise, specific and relevant to the application, and clearly state the conflict with the relevant policies of the Stockton-on-Tees Borough Council Local Plan.
5. The Council's case has been backed up with a commentary of Members' considerations of the harm within the appeal statement. Members felt the proposed development would cause harm to the character of the area including the setting of the adjacent cemetery for a number of reasons, and their site visit compounded this. I do not agree that the evidence presented is vague and

- generalised, rather a matter of their judgement which differed to that of the Officer's.
6. Inaccurate information was previously conveyed in relation to an older tree report. This inaccuracy would not make any material difference to the decision, as the more recently submitted tree evidence has clarified this matter. Nonetheless, an updated tree survey would be required for future reserved matters submission(s) once the layout of the dwellings is finalised.
 7. Previous planning applications have been approved on the site and the appeal decision dismissed in 2017. The most recent scheme related to a larger site, and all were for a more significant quantum of development. The Inspector in that case focused on the playing fields area, but found the development overall to be unacceptable. I have given it limited weight in my appeal decision, as the Council's Members are also entitled to do if they have adequate reason to do so. The previous permissions lapsed some time ago and there is no fallback position. The Council came to a view that the verdant character of the site had changed in the intervening period; this is a valid material change in circumstances that they are at liberty to take into consideration.
 8. It will be seen from my decision that I have agreed with the applicants' case on the proposed development. Nonetheless I also find that the Council has adequately substantiated the reasons for refusal, which are a matter of judgement, and it has not caused unnecessary or wasted expense. Unreasonable behaviour has not been demonstrated and therefore no award of costs is made.

Susan Hunt

Inspector