



Costs Decision

Site visit made on 21 June 2010

by **Michael Hurley BA DipTP MRTPI**

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

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**Decision date:
1 July 2010**

Costs application in relation to Appeal Ref: APP/W0734/A/10/2124347 Stainsby Hall Farm, Low Lane, Stainton, TS17 9LG

- 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 Mandale Commercial Ltd for a full award of costs against the Middlesbrough Council.
- The appeal was against the refusal of the Council to grant planning permission for the use of an agricultural building for commercial landscape business and associated horticultural purposes.

Summary of Decision: The application fails and no award of costs is made.

The Submissions by Mandale Comercial Ltd

1. The Council produced no substantial evidence in support of their reasons for refusal. Their decision was contrary to the recommendations of their planning officers and highway engineers, which were that planning permission should be granted subject to conditions.
2. Paragraph B20 of the Annex to Circular 03/2009 indicates that planning authorities will need to show reasonable planning grounds for taking a decision contrary to the professional or technical advice of their officers, and will need to produce relevant evidence on appeal to support such a decision. If they fail to do so costs may be awarded against them. Such an award should be made in the present case.

The Response by the Middlesbrough Council

3. In view of the objections made to the proposed development, members of the Planning and Development Committee visited the appeal site prior to reaching their decision. They were also addressed by Cllr Maelor Williams, who has represented the Stainton and Thornton Ward for many years, and is Chairman of the Parish Council. He has considerable local knowledge, and was able to explain the concerns expressed by local people.
 4. The Committee's decision was based on a full understanding of the issues. They concluded that the proposed development would detract from the quiet enjoyment of this part of the Green Wedge, and that the additional traffic generated would hinder the safe movement of traffic and inconvenience users of the right of way. The Committee's decision was in accordance with the development plan, and was justified in terms of Government guidance. It had been supported by appropriate evidence in the Council's appeal submissions. No award of costs should be made in this case.
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Conclusions

5. 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 the party applying for costs to incur unnecessary or wasted expense in the appeal process.
6. I do not consider that that the Council have acted unreasonably in this case. The proposed use could potentially generate additional activity and traffic. The Council's judgement was that this would be likely to detract from the public's quiet enjoyment of the Green Wedge, which Policy EN2 of the Middlesbrough Local Plan seeks to protect. Additional traffic could also cause inconvenience to pedestrians and others using the public right of way that gives access to the appeal premises. Having regard to the limited width of the access road, the limited forward visibility on a section of this road, and the history of accidents at the junction between the access road and Low Lane, the Council's misgivings about road safety are understandable.
7. Whether these potential impacts are sufficiently severe to justify the refusal of planning permission is essentially a matter of judgement. Having inspected the site and considered the opinions of local people, the Council's judgement was that permission should be refused, contrary to the recommendations of their officers. I do not share that view. However, I do not consider that it was unreasonable, or that it was not supported by evidence. I conclude that no award of costs should be made in this case.

Formal Decision

8. I hereby refuse the application for an award of costs against the Council.

Michael Hurley

Inspector