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## Costs Decision

Site visit made on 5 July 2016

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 22 September 2016**

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### **Costs application in relation to Appeal Ref: APP/W0734/W/16/3147918 44 Westbourne Grove, Middlesbrough TS3 6EF**

- 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 Mrs Shabnam Khan for a full award of costs against Middlesbrough Borough Council.
  - The appeal was against the refusal of planning permission for the demolition of existing building and erection of new dwelling containing 9 no. self-contained flats and associated boundary treatments.
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### **Decision**

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

### **Reasons**

2. Paragraph 030 of the Government's Planning Policy Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
  3. Paragraph 049 of the PPG states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. An example of unreasonable behaviour would be failure to produce evidence to substantiate each reason for refusal on appeal.
  4. During consideration of the planning application by the Local Planning Authority, the Council's highway engineer expressed reservations about the low level of parking provision on the site together with its problematic layout. Concern was also expressed with regard to parking restrictions in force on the highway, the limited width of the carriageway and the potential competition for parking spaces with existing residents.
  5. Notwithstanding this the planning officer was duty bound to balance this against the consideration that an increased level of parking demand on the highway could arise from the resumption of the existing use of the site as a place of worship. Accordingly the officer was entitled to reach the view that it would be difficult to substantiate a reason for refusal based on highway safety.
  6. Equally the decision making Committee are not duty bound to follow the advice of their officers. It took into account the advice of the Council's highway engineer and the knowledge and awareness gained about the proposal and its
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surroundings including from the site visit. This information formed the evidence which enabled the Committee to take a contrary view to planning officers and substantiate the refusal reason.

7. The minute of the meeting does not confirm that the Committee took into account the potential fallback position of the parking demand associated with the site being used as a place of worship. However Members would have been aware of the officer's advice in this regard as it was contained in the Planning Committee report. Furthermore the appellant has not put forward a compelling argument that more careful and conscious regard to this factor would have led the Council to arrive at a different decision. Nor would the lack of local opposition on highway related grounds mean that the proposal should have been allowed, with the Council being required to take into account the overall planning merits of the scheme.
8. I have not been provided with any information that would lead me to a conclusion other than having weighed up the various issues, in the overall planning balance the Committee simply arrived at a different view to that of its planning officers.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Roy Merrett*

INSPECTOR