



Costs Decision

Site visit made on 29 July 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2020

Costs application in relation to Appeal Ref: APP/X1118/W/20/3251066 25 Cleave Close, Sticklepath EX31 2DX

- 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 John Yeo for a partial award of costs against North Devon Council.
 - The appeal was against the decision to impose conditions on a grant of planning permission for erection of detached house on site adjacent to no.25 Cleave Close, EX31 2DX, Barnstaple.
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Decision

1. The application for 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.
3. The applicant indicates that the Council has been inconsistent in its decision making and has used conditions that are not necessary. It is also stated that the construction working hours condition is not relevant to planning because any construction disturbance can reasonably be dealt with under statutory noise provisions under separate Environmental Health legislation.
4. Whilst I accept that it would have been fairer if the construction working hours condition had been applied to both cases within Cleave Close, despite the evident difference in the sizes of the sites, the remit of this appeal is to consider whether the conditions are necessary and reasonable in relation to the development permitted. In this case I consider that the construction working hours condition is reasonable in the interests of protecting the living conditions of neighbouring occupiers.
5. There have been recent changes to the Town and Country Planning Act 1990 (as amended) specifically in response to the recent COVID-19 pandemic which allow for a temporary relaxation of construction working hours conditions. The inclusion of this new legislation highlights the commonplace nature of this type of condition in built up areas in order to protect the living conditions of neighbouring occupiers.
6. Whilst the temporary provisions in the Act may result in a greater degree of disturbance to neighbours, it has been made clear that this is a specific response to the economic effects of the pandemic and that such measures will seek to exist beyond 1 April 2021. In light of these recent changes, some

flexibility has been afforded to the appellant in order to permit longer working hours, although it would not suffice to allow reliance solely on Environmental Health legislation, particularly given the appellant's claimed intentions to work during hours outside of the typical working week.

7. No comments were provided specifically in relation to the garage retention condition and this has been varied along the lines requested by the appellant in order to provide clarity.

Conclusion

8. As such, the Council has not been unreasonable nor caused the appellant to incur unnecessary or wasted expense. For these reasons, and having regard to all other matters raised, a full or partial award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR