



Costs Decision

Site visit made on 18 January 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

Costs application in relation to Appeal Ref: APP/Z3445/W/20/3259626 104 Argyle Street, Glascote, Tamworth B77 3EN

- 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 Eddie Short for a partial award of costs against Tamworth Borough Council.
 - The appeal was against the refusal planning permission for erection of 2 bedroom dwelling to side of existing property and demolition of garage.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. The appellant is of the view that matters in relation to noise transfer could be adequately resolved through other regulatory regimes, specifically in this instance, through the Building Regulations. Accordingly, they consider that the Council have sought to duplicate other legislative controls and that this has required the appellant to provide evidence to counter this concern.
4. The Council have not replied to the application for costs. However, based on the evidence that is before me, I am of the view that raising the concern of noise transfer was a legitimate approach for the Council to take. Nevertheless, it is a common scenario in residential development and one that can be adequately resolved with suitable noise mitigation. Moreover, it is a scenario that can more than adequately be controlled through the use of a planning condition.
5. Accordingly, whilst I find that in raising the concern, the Council have not acted unreasonably, it is clear that the matter could have been controlled through the use of a condition had planning permission been forthcoming. As a consequence, I find that on this basis, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that therefore, a partial award of costs is justified.

Costs Order

6. 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 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tamworth Borough Council shall pay to Mr Eddie Short, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to noise transfer considerations; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Tamworth 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.

Martin Chandler

INSPECTOR