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## Costs Decision

Site visit made on 7 September 2021

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> September 2021**

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### **Costs application in relation to Appeal Ref: APP/X1118/W/21/3274931 48 Elizabeth Drive, Sticklepath EX31 3AJ**

- 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 Derren Bates for a full award of costs against North Devon District Council.
  - The appeal was against the grant subject to conditions of planning permission for demolition of existing extensions, erection of extensions & raising of roof ridge for additional accommodation to dwelling.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the PPG) says that parties in planning appeals and other planning proceedings normally meet their own expenses. However, it 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 application for an award of costs in this instance is based almost entirely on the behaviour of the Council during the planning application process and following the decision, rather than during the appeal process. The PPG makes it clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal, although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
4. Although it is apparent that the application process was somewhat frustrating for the applicant, the evidence indicates that a decision was made in a little over two months, which is not far outside the expected timescale for determining an application of this type. Further frustration was encountered in post-decision communications with the Council to understand why the conditions had been imposed, and how the applicant's concerns may be resolved. Nevertheless, the evidence shows that an e-mailed response explaining the decision, and setting out two alternative courses of action, was received two days after the date of the decision. I do not, therefore, find that the Council's behaviour during and after the application was unreasonable.
5. The Council chose to amend its position on the need for some of the windows to be obscure glazed following receipt of the appeal. On the one hand, this could be taken as an admission that the conditions were wrongly imposed.

However, the PPG advises that a local planning authority will be at risk of an award of costs for not reviewing their case promptly following the lodging of an appeal. Consequently, this is what it did, and that resulted in a narrowing of the difference between the parties. As a result, there was less for the appellant to address at the final comments stage. I do not therefore find the Council's approach to be unreasonable.

6. It is contended in the application that the Council approved a similar proposal, at around the same time, where there was a considerably smaller distance between opposing windows, with no conditions requiring obscure glazing. The PPG advises that a local planning authority will be at risk of an award of costs for not determining similar cases in a consistent manner. Whilst some details of the other planning application have been provided, there is insufficient information for me to conclude that it was so directly comparable, that the two decisions were inconsistent.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Nick Davies*

INSPECTOR