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## Costs Decision

Site visit made on 3 July 2017

**by Graham Chamberlain BA (Hons) MSc MRTPI**

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

**Decision date: 7<sup>th</sup> July 2017**

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### **Costs application in relation to Appeal Ref: APP/X1545/W/17/3169727 18 Prince of Wales Road, Great Totham, Essex CM9 8PX**

- 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 Maldon District Council for a full award of costs against Mr Jamie Hunter.
  - The appeal was against the refusal of planning permission for the demolition of existing rear single garage. Construction of a 2 bedroom bungalow with a flat green roof over.
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### **Decision**

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

### **Reasons**

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG goes on to state that a substantive award may be made against an appellant when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
4. In this case I do not consider the development is clearly contrary to the development plan as the areas in dispute have aspects of professional judgement and subjectivity. The appeal scheme is not, for example, development in the countryside or within a flood zone, which is likely to clearly contravene established policies and therefore necessitate further evidence and explanation.
5. The points in dispute in respect of living conditions, highway safety and the character and appearance of the area were arguable. They were not wholly 'clear cut' and were addressed in the Design and Access Statement, albeit briefly. The appellant's case was not persuasive and was rather light weight, but it was not so lacking as to have been unreasonable.
6. As such, the appellant was entitled to rely on his previous submissions as his principle evidence for supporting his appeal. Moreover, whilst this can be to the disadvantage of a party during the appeal process, especially if additional

evidence is provided by another party which requires rebuttal, it is not, in my experience, an uncommon occurrence.

### **Conclusion**

7. Thus, my overall conclusion is that the appellant did not act unreasonably by principally relying on his Design and Access Statement as his main evidence in support of the appeal. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

*Graham Chamberlain*  
INSPECTOR