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## Costs Decision

Site visit made on 28 August 2019

**by Andy Harwood CMS MSc MRTPI**

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

**Decision date: 23 September 2019**

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### **Costs application in relation to Appeal Ref: APP/T5150/X/18/3213401 11 Denzil Road, London NW10 2UR**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Rani Mirza for a full award of costs against the Council of the London Borough of Brent.
  - The appeal was against the refusal of a certificate of lawful use or development for a rear dormer extension.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Costs may however 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. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice.
3. The appellant's claim for costs is on the basis that the Council did not apply the correct Class from within Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). In my appeal decision, I have agreed with the appellant. However, this was on the basis of a fact and degree assessment of which class of the GPDO should be applied. It was not a clear-cut matter and the Council's view was arguable and not irrational or clearly mistaken as suggested by the appellant.
4. The appellant has provided an example elsewhere in London where that local planning authority reached a different conclusion on which class of permitted development to apply. However, these are matters of judgement and it may well be that different decision makers reach different conclusions even when the facts are similar. The GPDO does require a degree of interpretation. Technical Guidance<sup>1</sup> has been published to assist but there remain areas for different interpretation about various matters. There is no well-established case-law on this particular matter.

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<sup>1</sup> Department for Communities and Local Government, Permitted development rights for householders, Technical Guidance, April 2017

5. In my view it is sometimes inevitable in such circumstance that matters such as those in this case will be tested. Where there is disagreement it is likely that an appeal will be pursued to challenge the assessment of the Local Planning Authority.

**Conclusion**

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified and the application fails.

*A Harwood*

INSPECTOR