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## Costs Decision

Site visit made on 11 November 2019

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

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

**Decision date: 15<sup>th</sup> November 2019**

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### **Costs application in relation to Appeal Ref: APP/A2280/D/19/3236100 41 Downland Walk, Chatham, Kent ME5 8AF**

- 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 Paul Stevens for a full award of costs against The Medway Council.
  - The appeal was against the refusal of planning permission for a garage conversion.
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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. The PPG also states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, if it delays development that should clearly have been permitted or fails to substantiate each reason for refusal.
3. The appellant has suggested that the Council failed to engage in a positive and proactive manner. However, the Council's planning officers advised the appellant of their concerns before determining the application and this allowed him an opportunity to provide additional evidence on the 6 July. Unhelpfully, the Council did not provide a detailed explanation either directly to the appellant or in the Officer's report as to why the evidence had not proven to be determinative. However, it was explained in the email of the 2 July that the Council's parking standards would not be applied to existing garages.
4. There is no written evidence to suggest the Principal Highway Engineer considered the additional evidence submitted by the appellant on the 6 July, but I note that the decision was made on the 26 July and the Council have indicated that discussions took place between the highway engineer and the case officer, who are both based in the same building. A file note of any discussion would have been advantageous, but I do not have substantive evidence before me that demonstrates the Principal Highway Engineer did not consider the additional evidence provided.

5. I am in no doubt that the Council could have been more helpful, and the Officer's report should have been more detailed in discussing the evidence provided by the appellant and why it had not proven to be determinative. However, I am satisfied from the evidence before me that the Council's engagement with the appellant, whilst minimal, was not unreasonable.
6. The appeal turned on whether the existing garage can adequately function as a parking space. The Council are of the view that the garage is adequate and therefore its conclusions, that the level of parking at the appeal site would fall below the adopted standard and that this would harm highway safety and amenity, were rationale. These conclusions were apparently informed by an expert (the Principal Highway Engineer) and I do not consider the Council's concerns to be entirely unfounded given what I observed, with cars parked on the pavement in Downland Walk – a sign of a difficult parking environment. I do not share the view of the Council as to the adequacy of the garage as a parking space, but this is a matter of judgment and therefore I take no issue with the Council's assessment in this respect and the conclusions that it subsequently reached.
7. There is no discussion in the Officer's report regarding the other approved garage conversions referred to by the appellant. The first time this was addressed was in the Council's cost rebuttal. However, as this has not proven to be determinative this oversight has not resulted in unnecessary expense.
8. Taking the above points together I do not consider the appeal scheme should clearly have been approved. In this instance the acceptability of the proposal turned on matters of planning judgment. I do not share the view of the Council, but I do not consider it was so illogical or inherently flawed as to amount to an substantive failing of an unreasonable nature.

### **Conclusion**

9. My overall conclusion is that the Council's decision did not amount to a substantive failure within the meaning of the PPG. As such, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred.

*Graham Chamberlain,*  
INSPECTOR