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## Costs Decision

Site visit made on 16 October 2019

**by Rory MacLeod BA MRTPI**

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

**Decision date: 30 December 2019**

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### **Costs application in relation to Appeal Ref: APP/T2215/W/19/3235521 1b Faesten Way, Bexley, DA52JB**

- 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 Martin Hall for a full award of costs against Dartford Borough Council.
  - The appeal was against the refusal of planning permission for demolition of existing detached double garage and construction of proposed three bedroom detached dwelling.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (PPG) 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 essentially is because the Council's Development Control Board acted unreasonably in ignoring a Council Officer recommendation that the planning application be approved, and that this has resulted in unnecessary wasted costs in pursuing an appeal.
4. PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal. In this case, whilst the recommendation of Council Officers was not accepted the decision is one which is a matter of judgement. The Officer report was clear that windfall assessment is a careful balancing exercise. Council Members on the Board were entitled not to accept the judgement and professional advice of Officers so long as a case could be made for the contrary view.
5. It will be seen from my appeal decision that I disagree with Board's findings, but the reason for refusal on the decision notice is clear in relation to the considered harm to the character of the area and in respect of the Council's policies on windfall development. Moreover, the Council has produced a reasoned statement to substantiate its decision to refuse permission with reference to relevant local plan policies. Although I have reached a different judgement on the planning merits of the case, this does not mean that the Council acted unreasonably in taking its decision and in defending it at appeal.

## **Conclusion**

6. The Council has not failed to properly evaluate the proposal. I have found that the Council had reasonable concerns about the impact of the proposal that justified its decision and that it has substantiated those concerns. The appellant had to address the concerns and the representations of third parties in any event. The appeal could not therefore have been avoided.
7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

*Rory MacLeod*

INSPECTOR