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## Costs Decisions

Site visit made on 15 November 2021

**by Martin Chandler BSc MA MRTPI**

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

**Decision date: 26 November 2021**

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### **Costs Application in relation to Appeal Ref: APP/A1910/W/21/3274477 Land SW of Rosewood, Shootersway Lane, Berkhamsted HP4 3NW**

- 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 Ms Andrea McPherson for a full award of costs against Dacorum Borough Council.
  - The appeal was against the Construction of 1 no dwelling with attached annex following demolition of existing detached double garage.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. The appellant is of the view that in changing their assessment of the proposal between the issuing of pre-application advice and the submission of the planning application, the Council demonstrated unreasonable behaviour. This behaviour caused the application to be refused rather than approved, thereby necessitating the preparation of the appeal. Had the Council been consistent in their advice, it is the view of the appellant that the need for the appeal would not have arisen. In response, the Council point to the fact that pre-application advice is not binding on future decisions and that following the application, a more thorough site visit was undertaken.
4. It is unfortunate that the position of the Council changed following the submission of the pre-application request. In seeking pre-application advice, the appellant could reasonably expect that this would give a degree of certainty for the outcome of a subsequent planning application. However, although I have found against the Council in my main decision, I am satisfied that the Council have articulated why the change in view came about. In my judgement, they have also presented a suitably substantiated case in support of their decision. Moreover, based on the evidence before me, I am satisfied that the change in position was suitably communicated with the appellant prior to the decision being made.
5. Consequently, although the appellant may consider the change in position to represent unreasonable behaviour, in my view, it has not given rise to an

unnecessary appeal. The Council's decision was not based on vague, generalised or inaccurate assertions about the proposal's impact and there is nothing to suggest that had negative pre-application advice been received, an appeal would not have been pursued.

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

*Martin Chandler*

INSPECTOR