

## Costs Decision

Site visit made on 8 February 2022

**by K E Down MA(Oxon) MSc MRTPI**

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

**Decision date: 18<sup>th</sup> February 2022**

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### **Costs application in relation to Appeal Ref: APP/Y1945/D/21/3288355 Land at 39 Capel Road, Watford, WD19 4FE**

- 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 Ian Davis for a full award of costs against Watford Borough Council.
  - The appeal was against the refusal of planning permission to repaint front exterior wall and half of rear exterior wall.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048 of the PPG makes clear that planning authorities are at risk of an award of costs if they refuse to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. The appellant's case is firstly that the Council failed to provide any guidance following the implementation of the Article 4 Direction regarding suitable exterior paint colours and secondly that the Council did not communicate with the appellant during the application process to discuss its concerns regarding the colour proposed or to seek a solution. The appellant states that had the Council made contact, further details could have been provided regarding this matter which could have avoided an appeal.
5. In respect of the Article 4 Direction, this simply states that planning permission is required to repaint the exterior of a dwelling in a different colour. That is quite clear. Nevertheless, the appellant did re-paint the exterior of the dwelling in a different colour without applying for planning permission.

6. I have no evidence that the appellant sought to contact or gain advice from the Council at any stage. Had the appellant used the Council's pre-application service or made an application before undertaking the work, the Council would have had an opportunity to provide guidance or enter into discussion. Moreover, it was open to the appellant to submit details to support the choice of paint colour with his application. He did not do this.
7. Since the work had already been carried out before planning permission was applied for, there was no opportunity for the Council to provide meaningful guidance either before or during the application process. It was the Council's view that the chosen colour was inappropriate and hence there was no merit in any discussion. The Council was entitled to take that view and to refuse planning permission on that basis.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

*KE Down*

INSPECTOR