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## Costs Decision

Site visit made on 16 August 2022

**by Martin Allen BSc (Hons) MSc MRTPI**

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

**Decision date: 14 October 2022**

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### **Costs application in relation to Appeal Ref: APP/G1630/W/22/3294352 The Old Stores, Toddington, Cheltenham, GL54 5DT**

- 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 William Down, JWS Cotswold Builders Ltd for a full award of costs against Tewkesbury Borough Council.
  - The appeal was against the refusal of planning permission for the demolition of single storey extension to The Old Stores, sub-division and 2 storey rear extension to the Old Stores, 3No new dwellings and associated garaging/carport and new access roadway.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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 for costs relies on substantive matters in relation to the planning merits of the appeal scheme. The applicant asserts that little evidence is offered beyond supposition in respect of the reason for refusal pertaining to the effect of the proposal on the character and appearance of the area. Furthermore, it is contended that no satisfactory rebuttal is provided in respect of the applicant's assessments of highway safety and flood risk.
4. In respect of the first refusal reason, the Council clearly sets out the matters of concern in respect of the appearance of the proposed dwellings, as well as the effect of the development on the existing building, which is considered to be a non-designated heritage asset. Rather than being supposition, I find that these comments are matters of planning judgement and are adequately set out within the submitted information.
5. In terms of highway safety, the Highways Authority set out concerns over the proposed access arrangements and, despite comments from the applicant and their consultant, these concerns have not been overcome. The concerns expressed are ones which I have agreed with when making my decision. As such, I find nothing unreasonable in the approach taken by the Council in regard to highway safety matters.
6. The third reason for refusal, pertaining to flood risk, is based on the initial comments of the Lead Local Flood Authority (the LLFA), which raised concern with the information that was submitted initially with the planning application. I

note that subsequent to this there were discussions between the applicant's drainage consultant and the LLFA, which resolved the matter. However, there is no evidence that the Council received confirmation from the LLFA that it was content with the revised information. In the absence of such confirmation, I find nothing unreasonable in the Council relying on the initial consultation response provided.

7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

*Martin Allen*

INSPECTOR