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## Costs Decision

Site visit made on 4 May 2023

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

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

**Decision date: 17 May 2023**

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### **Costs application in relation to Appeal Ref: APP/J1535/D/23/3318412**

#### **3 Linkside, Chigwell, Essex IG7 5DN**

- 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 & Mrs P Kyprianou for a full award of costs against Epping Forest District Council.
  - The appeal was against the refusal of planning permission for single-storey (rear/side/front) extensions, roof alterations with rear box dormer inc. Juliet balcony, and a further Juliet balcony at first floor level.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **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. The applicant contends that the Council's did not have adequate reason to refuse the application which was contrary to officer recommendation and did not give sufficient weight to the fallback position consented under the certificate of lawful development<sup>1</sup>.
4. Members of the Council's Planning Committee are not bound to accept the recommendations received from their planning officers. It will be seen from my decision that there were not sufficient grounds for refusing planning permission in terms of the reasons outlined by the Council.
5. I consider the reasons for refusal raised vague assertions about overlooking, the effect of the proposed development on living conditions of existing and future occupiers of the appeal site and relating to the character and appearance of the area.
6. The fallback position relating to alternative development is a material consideration and whilst it is for the decision maker to attribute weight to this, it is difficult to rationalise refusal in the context of the existing situation and potential fallback position against the appeal proposal itself. The Planning Committee minutes do not provide any explanation of the justification.

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<sup>1</sup> Application Reference: EPF/2944/21 CLD

7. The Council's decision to refuse planning permission failed to stand up to scrutiny on appeal. The Council's decision was not well founded and was unreasonable. I therefore consider the Council's unreasonable behaviour has resulted in the applicant incurring wasted expense.

### **Conclusion**

6. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated with regard to all reasons for refusal and that a full award of costs is justified.

### **Costs Order**

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Epping Forest District Council shall pay to Mr & Mrs P Kyprianou, the full costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Epping Forest District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*C Pipe*

INSPECTOR