



Costs Decision

Site visit undertaken on 19 July 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Costs application in relation to Appeal Ref: APP/P1940/D/24/3343591 16 Maple Lodge Close, Maple Cross, Hertfordshire WD3 9SN

- 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 Jones against the decision of Three Rivers District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing garage and construction of single storey front, side, rear extension; loft conversion including hip to gable roof extension with rear dormer window and front rooflights; replacement of window to side elevation.
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Decision Costs Application:

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant has put forward one ground for unreasonable behaviour in this costs decision which relates to substantive to the issues arising from the merits of the appeal. The Appellant states that the Council exhibited unreasonable behaviour as they refused to grant the application, being aware that permitted development rights under the General Permitted Development Order 2015 (As Amended) (GPDO) were a material consideration which in the Appellant's opinion should have outweighed the lack of conformity of the Development Plan policies.
4. Section 38 (6) of the Planning and Compulsory Purchases Act 2004, and additionally Section 70 (2) of the Town and Country Planning Act 1990 both iterate that decisions involving planning applications must be undertaken in accordance with the Development Plan unless material considerations indicate otherwise.
5. There is no dispute between either party that the GPDO is indeed a material consideration and the discussion regarding the GPDO is discussed in detail within the Planning Officer's Report¹. The Acts described above only provide that the Decision Maker (the Council) must consider any material

¹ See Section 7.8

consideration, it is then up to the decision maker to then decide how much weight it affords the material consideration against the Development Plan. This is also replicated in the Appendix B that the Appellant has submitted with their appeal documents.

6. In this particular case, whilst the Council considered the GPDO as a material consideration, they decided that more weight was given to the policies of the Development Plan, whereby the scheme in the Council's opinion was detrimental to the character and appearance of the area and contravened their design policies.
7. I acknowledge comments from the Appellant that the Council were insistent upon the Appellant seeking to gain a Certificate of Lawful Development (CLD) for the development described as being in accordance with the GPDO, as this would have been a way of ensuring that the Council gave significant weight to this material consideration when weighed against the policies of the Development Plan. Whilst I am not aware of other Councils adding permitted development via informatives on Decision Notices; as far as I am aware this is not a process that is supported by the Act or accompanying guidance.
8. Whilst I can appreciate the frustration of the Appellant to have to go through the appeal process, the Council have acted in accordance with the Act and relevant case law in terms of how they processed the application, and their considerations involving material considerations in making the determination.
9. Taking the above into account, I am not convinced that the Council have acted unreasonably in their determination of the planning application and therefore this appeal could not have been avoided. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR