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## Costs Decision

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date 23 September 2026

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### **Costs application in relation to Appeal Ref: APP/K0235/X/25/3364376**

#### **44 Portway, Great Denham, Bedford, MK40 4GB**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The appeal is made by Mrs Mehmi for a full award of costs against Bedford Borough Council.
  - The appeal was against a refusal of a certificate of lawful use or development for a garage conversion to form an activity room.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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 PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications which prevent or delay development which should clearly be permitted.
4. The Decision Notice states that permitted development rights for the proposal had been withdrawn by condition 8 of the 1997 permission (Ref: 97/00445/REM). However, that condition related to the original detached garage at the property which was subsequently demolished. No restriction of permitted development rights was imposed on a subsequent 2015 permission (Ref: 15/01139/FUL) for a side/rear extensions to the dwellinghouse, where the proposed alterations are to take place. Consequently, the Council during the course of the appeal accepted that permitted development rights were available for the proposal.
5. Notwithstanding that the LDC application form did not expressly refer to the 2015 permission, it confirmed that the use of the property would remain residential and that the proposal included alterations to the dwellinghouse which were considered to be permitted development. The submitted proposal plans clearly show that the original garage had been removed and that the proposed alterations were to occur in the extended part of the dwellinghouse, as approved in 2015. The application also referred to a number of specific permitted development requirements, including the use of matching external materials and restrictions relating to the projection of rooflights. Taken together, this indicates that the application was advanced on the basis that permitted development rights were available and capable of authorising the proposal.

6. Although the onus of proof rests with the appellant, I am satisfied that they were entitled to proceed on the basis that sufficient information had been provided to enable the Council to determine the application. This remains the case irrespective of whether they explicitly submitted a copy of the 2015 permission with the application. Given that the relevant planning history formed part of the Council's own records, identifying the 2015 permission would not have required an exhaustive review of the site's fairly limited planning history. Indeed, the Council clearly did review the history, as evidenced by their initial reliance on the 1997 permission, but they did not adequately consider the effect of the 2015 planning permission. In this particular circumstance, I am satisfied that the Council's determination of the application effectively delayed development which should clearly have been permitted, having regard to the relevant material considerations.
7. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

8. 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 Bedford Borough Council shall pay to Mrs Mehmi, the 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.
9. The applicant is now invited to submit to Bedford Borough 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.

*S Lo*

INSPECTOR