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## Costs Decision

Site visit made on 24 January 2018

**by J Gilbert MA (Hons) MTP MRTPI**

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

**Decision date: 8 February 2018**

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### **Costs application in relation to Appeal Ref: APP/X1925/W/17/3184578 Half Moon Lodge, Lawrence End Road, Peters Green LU2 9QD.**

- 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 D Guerrier for a partial award of costs against North Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for conversion of the existing garage to a separate dwelling, first floor extension including front dormer and alterations.
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### **Decision**

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

### **Reasons**

2. The national Planning Practice Guidance (PPG) advises at paragraphs 29 and 30 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. According to paragraph 31 of the PPG, unreasonable behaviour in the context of an application for an award of costs may be either procedural in relation to the process; or substantive in relation to the issues arising from the merits of the appeal.
4. The applicant submits that the Council has acted unreasonably with regard to this appeal on a substantive basis. The applicant considers that the second part of the Council's reason for refusal is confusing and inconsistent and that the Council made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. While I consider that the first part of the Council's reason for refusal was substantiated in their officer report, the Council's concern about the precedent effect of the loss of the garage was not adequately substantiated and did not refer appropriately to the extant permission<sup>1</sup> which would also result in the existing garage being converted into residential accommodation, albeit ancillary residential accommodation to the main house. The Council referred only to detached garages within the curtilage of dwellings being commonplace and it therefore being relevant to take into account the cumulative effect that such

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<sup>1</sup> 16/01706/1HH

development would have. I consider that the Council acted unreasonably in making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

6. As a result of the Council's stance regarding the second part of the reason for refusal, expenses incurred by the applicant were unnecessary as time and effort was expended on a part of the case that should not have had to be pursued. While the applicant may not have been put to large amounts of additional expense in countering the Council's position, extra costs were incurred in producing an appeal statement to address the second part of the reason for refusal, and an award in this specific respect is justified.
7. I therefore conclude that a partial award of costs, to cover the unnecessary expense incurred by the applicant in contesting the second element of the reason for refusal relating to the loss of the garage, 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 North Hertfordshire District Council shall pay to Mr D Guerrier the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the second element of the reason for refusal relating to the loss of the garage; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to North Hertfordshire 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.

*J Gilbert*

INSPECTOR