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## Costs Decision

Site visit made on 13 October 2020

**by Mr C J Tivey BSc (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 02 November 2020**

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### **Costs application in relation to Appeal Ref: APP/X5210/W/20/3247384 5 The Hexagon, Fitzroy Park, London N6 6HR.**

- 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 the London Borough of Camden Council for a full award of costs against Miss Rachel Munro-Peebles.
  - The appeal was for the extension of existing house and internal reconfiguration to create open plan ground floor and 4 bedrooms to the first floor. The proposal includes the demolition of an existing garage as well as the erection of 2no single storey extensions to the side and front of the existing property and a two storey extension at the rear.
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### **Decision**

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

### **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 waste expense in the appeal process. It goes on to state that the aim of the cost regime is to, amongst other things, encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case.
3. Awards against appellants may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive which relates to the planning merits of the appeal; a number of examples of the type of behaviour that may give rise to an award and against an appellant is also set out within the PPG.
4. The Council considers that the pursuit of the appeal on the single ground relating to the failure of the applicant to make provision for a planning obligation to control the impacts from the construction phase of the proposed development was unreasonable. Further they state that they explained their case several times and the applicant had ample opportunity to reconsider their decision to appeal.
5. I consider that that is not an entirely fair position, bearing in mind that it was the applicant's mortgage lender that effectively put a spanner in the works; and I have no reason to doubt that if they had agreed to be a signatory on the

section 106 agreement then I wouldn't have been determining this application or its associated appeal.

6. Furthermore the applicant highlighted that the development plan does not stipulate that Construction Management Plans (CMPs) have to be secured by way of a planning obligation, notwithstanding the fact that I found in my appeal decision that one was necessary. In some circumstances the imposition of a condition can be appropriate, although admittedly a monitoring fee could not be secured by a positively worded condition only a negative, grampian style one which would essentially require the applicant to enter into a planning obligation leading them back to square one.
7. Furthermore the applicant exercised her right to appeal to the Secretary of State for what was not necessarily a clear cut case. I acknowledge the sequence of events which the Council set out within their appeal statement, but ultimately the applicant had no choice but to appeal as they were stuck between a rock and a hard place, and simply wanted to secure planning permission for what was an otherwise uncontentious house extension. I did however find that the fact that the mortgage provider wouldn't enter into the legal agreement did not outweigh the harm that would result from the lack of a CMP or a monitoring contribution.
8. I find that the applicant did not act unreasonably in pursuing the appeal, consequently it has not resulted in unnecessary wasted expense to the Council, notwithstanding my finding in their favour in that respect in my appeal decision letter.
9. The application for a full award of costs is therefore refused.

*C J Tivey*

INSPECTOR