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## Costs Decision

Hearing held on 10 January and 14 February 2017

Site visit made on 14 February 2017

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 3 March 2017**

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### **Costs application in relation to Appeal Ref: APP/C5690/W/16/3155510 Phoebes Garden Centre, Penerley Road, Catford, London SE6 2LQ**

- 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 Michael Jordan for a partial award of costs against the Council of the London Borough of Lewisham.
  - The appeal was against the refusal of planning permission for the demolition of the existing buildings at Phoebes Garden Centre, Penerley Road SE6 and the construction of a three storey building incorporating balconies to provide 5 one bedroom, 15 two bedroom and 9 three bedroom self-contained flats, together with the provision of car parking spaces, cycle spaces and landscaped garden areas.
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### **Decision**

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

### **Reasons**

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs is made on procedural grounds. It is argued that the Council's failure to give appropriate notice to all relevant parties of the date and location of the hearing, and which led to the adjournment of the hearing, resulted in the appellant incurring unnecessary and wasted expense in employing the costs of various consultants on the day of the adjournment. The PPG highlights that in circumstances where the failure to notify the public of a hearing leads to the need for an adjournment, it may lead to an award of costs against a local planning authority.
4. Although the Council had sent out a letter regarding the original date of the hearing in January 2017, the list of third parties to which it was sent was deficient. As such, a number of local residents, and the local residents association, had not been notified of the original hearing date. Consequently, the hearing had to be adjourned to enable adequate notification to take place.
5. I accept that the Council's error was not deliberate, and that following the adjournment it acted swiftly to rectify the error. However, the error in sending

out the letter meant that the hearing had to be adjourned in January, and this resulted in unnecessary expense for the appellant.

6. I therefore find that unreasonable behaviour resulting in unnecessary, and wasted, expense, as described in the PPG, has been demonstrated and that a partial 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 the Council of the London Borough of Lewisham shall pay to Mr Michael Jordan, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred on the day of the adjournment; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council of the London Borough of Lewisham, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Alison Partington*

INSPECTOR