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## Costs Decision

Site visit made on 28 January 2020

**by Mr D.R McCreery MA BA (Hons) MRTPI**

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

**Decision date: 14 February 2020**

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### **Costs application in relation to Appeal Ref: APP/M3645/W/19/3239265 16 The Heath, Chaldon, Caterham CR3 5DG**

- 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 Mrs W Lee for a full award of costs against Tandridge District Council.
  - The appeal was against the refusal of outline planning permission for the demolition of an existing garage, erection of one dwelling and formation of a new access road.
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### **Decision**

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

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant states that the Council unreasonably refused the application, failed to substantiate their reasons for refusal, and included a further reason for refusal.
5. I do not agree that the previous appeal decision relating to the appeal site provided a clear steer on the way forward, as the appellant suggests. The previous appeal decision set out some principles that could be applied to the proposed development but gave no firm indication that a development of a reduced quantum would be acceptable. The previous appeal decision also did not address the matters raised about living conditions. These matters were raised as issues of concern from third parties and were also considered to be main issues that should be addressed as part of the appeal.

6. The Council substantiated their reasons for refusal in their statement of case dated December 2019. The statement of case contradicts the contents of the report that was submitted to the Planning Committee where the Officer's recommendation was not followed. Notwithstanding this, the fact that the statement explains a Committee decision where a different view was taken from Officers does not of itself lead to a conclusion that the Council was behaving unreasonably.
7. It is noted that the Council introduced concerns about noise and nuisance through their statement of case that effectively extended their reason for refusal regarding living conditions into an area of new concern. However, this matter, along with other matters relating to living conditions, were clearly raised by third parties during the planning application and the appeal. As such, the appellant would have needed to engage with these issues regardless and cannot therefore be regarded as having incurred unnecessary or wasted expense as a result.
8. Accordingly, I find that the Council neither unreasonably refused the application, nor failed to substantiate their reasons for refusal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*D.R. McCreery*

INSPECTOR