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## Costs Decision

Site visit made on 3 December 2019

**by M Allen BSc (Hons) MSc MRTPI**

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

**Decision date: 25 February 2020**

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### **Costs application in relation to Appeal Ref: APP/M3645/W/19/3236848 The Orangery, Castle Square, Bletchingley RH1 4LB**

- 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 Jeffrey Foster for a full award of costs against Tandridge District Council.
  - The appeal was against the refusal of planning permission for the Change of use of building from C3, B1, B8 to separate dwelling 3 bedroom.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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 application for costs relies on both substantive and procedural matters. The substantive matters relate to the merits of the application that was before the committee for consideration. I note that the Council contends that it was "entitled to conclude that the changes to the scheme following the previously dismissed proposal...were not sufficient to overcome the previous concerns." However, the previous appeal on the site was dismissed due to that proposal having a harmful effect on openness. That is not the harm that the Council alleges in the reason for refusal.
4. The first limb of the reason for refusal is clear in that it alleges harm to the character and appearance of the area. This matter was specifically covered by the Inspector in the previous decision and it was concluded that the previously considered scheme would not harm the character or appearance of the area. As such, there was no harm in regard to this particular matter which needed to be overcome by the revised scheme. Therefore, I find that the Council has persisted in objecting to a scheme on the basis of a matter that an Inspector has previously indicated to be acceptable, without a cogent argument for taking a contrary position. This amounts to unreasonable behaviour.
5. The second limb of the reason alleges harm to the "amenities of neighbouring properties". I note that this matter was not considered by the Inspector in the previous appeal decision, as the scheme was being dismissed for other reasons. However, the recommendation to the planning committee was that the scheme would not have a significant effect on amenity and the

recommendation was to grant planning permission, partly on that basis. Whilst accepting that a committee is not bound to accept the recommendation of officers, reasonable grounds for finding otherwise must be substantiated.

6. The Council's statement of case refers to "a loss of residential amenity through an increased demand for parking, and the potential conflict arising as a result." No further details are provided in respect of this matter, there is no objective analysis of parking provision and no explanation of how the parking arrangements would result in any conflict. As a consequence, I consider this assertion to be vague and generalised. Furthermore, this element of the reason for refusal has been insufficiently substantiated. This also amounts to unreasonable behaviour on the part of the Council.
7. In respect of procedural matters, the applicant contends that there were failings in the procedure of the planning committee in reaching its decision. In particular, that the application was voted on, against officer recommendation, without a reason for refusal being formulated, necessitating the application being presented to a further meeting where a reason was put forward. In the intervening time, there were discussions away from the committee in respect of possible reasons for refusal.
8. I note the frustration of the applicant in this respect and note the guidance which I have been provided with advises that clear reasons should be formulated prior to a vote taking place. However, I am not convinced that this departure from advised procedure has resulted in an unnecessary appeal. I find the application would have been refused whether a reason for refusal was formulated before or after the vote to depart from the recommendation of the planning officer.
9. Thus, whilst I find that there has been no unreasonable behaviour in respect of procedural matters, I do find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of substantive matters and a full award of costs is justified.

### **Costs Order**

10. 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 Tandridge District Council shall pay to Mr Jeffrey Foster, 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.
11. The applicant is now invited to submit to Tandridge 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.