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## Costs Decision

Site visit made on 3 October 2023

**by J Downs BA(Hons) MRTPI**

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

**Decision date: 1 November 2023**

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### **Costs application in relation to Appeal Ref: APP/D3505/W/22/3312776 Lafham Hall Estate, Lafham Hall, Pond Hall Road, Hadleigh IP7 5PP**

- 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 JJ Hartman Homes for a full award of costs against Babergh District Council.
- The appeal was against the refusal of prior approval for Application to determine if Prior Approval is required for a proposed: Change of Use of Agricultural Buildings to Dwellinghouses (C3) and for building operations reasonably necessary for conversion. Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class Q - Conversion of a Barn into 2no. dwellings.

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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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 appellant considers the Council has behaved unreasonably as there was no legal or substantive basis for the first reason for refusal in light of court judgements regarding the implementation of conflicting permissions.
4. For the reasons given in my appeal decision, I concurred with the Council that it would be possible for both permissions to be implemented. However, I did not agree with the Council's conclusion as to whether the location or siting of the buildings make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses). Notwithstanding, it was a legitimate matter of planning judgement as to whether there would be an impractical or undesirable effect arising from the proposed development, the reasoning for which was set out in the officer report in a mostly clear and precise manner.
5. The appellant also considers the Council was unreasonable in requesting a payment towards the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), raising concerns as to the status of the RAMS. Irrespective of this status, the site does lie within the zone of influence of the Stour and Orwell Estuaries Special Protection Area and Ramsar site. The appellant is not obliged to follow the requirements of the RAMS. However, the proposed development could only proceed if in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 and Conservation of

Habitats and Species Regulations 2017 as set out in my appeal decision. This was a legitimate issue to bring to the appellant's attention and as such does not demonstrate unreasonable behaviour on the part of the Council, nor would consideration of this issue put the appellant to unnecessary expense.

### **Conclusion**

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

*J Downs*

INSPECTOR