The Planning Inspectorate

Costs Decision

Site visit made on 19 October 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 14th November 2017

Costs application in relation to Appeal Ref: APP/W1715/W/17/3176347 Rivendale House, 38-40 Leigh Road, Eastleigh SO50 9DT

- 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 Riverdale Construction Ltd for a full award of costs against Eastleigh Borough Council.
- The appeal was against the refusal of planning permission for "the creation of 3 no. flats within the roof space following the conversion of existing office space (B1a) on the ground and first floor to residential dwellings under permitted development with associated parking, cycle storage, bin storage and landscaping."

Decision

1. The application is refused.

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. In dismissing the appeal, I have found that the Council has not prevented or delayed development which should clearly be permitted, having regard to its development plan, national policy and any other material considerations. In its first reason for refusal, the Council has highlighted the substitution of hipped pitched roof with a flatroofed and vertically clad storey. It has provided a balanced judgement on the design attributes of the Edwardian style building and harm arising from a modern storey addition, which I concur with. As to height, it has drawn attention to the increase along the flanks of the building and forward of the roof ridge where the roof is of a sloping nature. Therefore, it has substantiated its objections on massing, bulk, scale, height and design.

4. As to the second reason for refusal, I have found favour with the applicant. Nevertheless, the Council has provided evidence on the internal space, outlook and private outdoor space. In respect of internal space, reference has been made to the minimum space standards of the Department of Communities and Local Government and the Council's Quality Places Supplementary Planning Document (SPD) 2011. As to outlook, my attention has been drawn to windows facing car parking, service yards and other buildings. Finally, the Council has drawn my attention to the requirements of the SPD as to the provision of external space. Overall, it has substantiated its case on living

conditions for these reasons. Furthermore, there is an element of subjectivity in assessing both these reasons for refusal.

5. In supporting their objections, the Council has highlighted the relevance of policy 59.BE of the Eastleigh Borough Local Plan Review (LP) 2001-2011 (2006) LP. LP Policy 53.BE has been referred in comments on the applicant's evidence where it has been indicated such a policy does not encourage 'people-intensive' development at all costs and does would not outweigh the harm arising on the character of the area which I have concurred with. Policies DM1 and DM29 of the emerging Eastleigh Borough Local Plan 2011-2029 (February 2014) Revised Presubmission has been used to support the Council objections but it has made it clear only limited weight should be attached to such policies.

6. On this basis, the Council has not made vague, generalised and inaccurate assertions about the proposal's design and living condition impact. No detailed evidence has been provided by the applicant as to why the development plan policy relied upon by the Council is out of date. The age of any policy is not justification in itself to prove inconsistency. Nevertheless, in my appeal decision, even applying the tilted test under paragraph 14 of the Framework, the presumption in favour of sustainable development does not apply. The Framework encourages constructive pre-application discussion. However, the Council did provide advice in a written response which was not taken up by the applicant in their subsequent submitted proposal. Notwithstanding this, any cost application relates to the appeal process and for the reasons indicated, the Council has not prevented or delayed development which should clearly be permitted.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathon Parsons

INSPECTOR