



The Planning Inspectorate
Room 3C
Temple Quay House
2 The Square
Bristol
BS1 6PN

Sent by email only

19 December 2023

Dear Sir/Madam

Appeal by Mr S Cole – Claim for Costs

Site Address: 32 Bradshaw Close, Fair Oak, Eastleigh SO50 7BS

Please accept this letter as the appellant's Claim for Costs against the unreasonable behaviour of Eastleigh Borough Council (EBC) which has resulted in additional expense by the appellant in pursuing this appeal.

The Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG lists different types of behaviours which may give rise to a substantive award against local planning authorities¹, although this is not exhaustive.

The appellant considers that the Council has acted unreasonably by (1) pursuing their request for a planning application for the retention of the patio despite having confirmed in writing on two separate occasions that planning permission was not required and, (2) by Committee members overturning the officer's recommendation for permission to be approved, despite a strong and detailed report confirming the acceptability of the scheme and without the benefit of a Committee site visit.

(1) In his letter of 09 June 2022 (Appendix 1) Mr Parr, Local Response Officer EBC, confirmed that no further action would be taken as the patio matches the approved plans on H/21/91552 when permission was granted for demolition of the garage to create a single storey side extension. On 11 December 2023 the Planning officer, following details onsite measurements, wrote to the appellant and confirmed that the raised patio falls under Permitted Development and does not require planning permission (Appendix 5).

Despite these two letters the Council continued to request and determine an application for its retention. It has been demonstrated in the appellant's appeal case that the dimensions of the patio structure are such that planning permission is not needed.

In addition, before this appeal was drafted and submitted, AMP, who are now instructed to prepare an appeal, contacted the Council to see if a conversation could be had consider this more closely with the appellant's planning advisor on this occasion. They were also made aware of relevant caselaw, Appendix 10. This was not considered in their response. On 13 December 2023 (Appendix 13) the Council responded and suggested the patio should be assessed under Class A, rather than Class E (Buildings etc), which is the Class detailed in the accompanying appeal decision. Mr Parker suggested that a patio does not fall within the definition of a building despite the definition being brought to the Council's attention in the appeal case quoted in Appendix 5.

¹ Paragraph: 049 Reference ID: 16-049-20140306



In light of the Council's unreasonable stance in respect to the need for planning permission and their unwillingness to engage with the appellant before this appeal is submitted, the appellant has been left with no option but to appeal or risk enforcement action, which they were nervous to do.

- (2) Permission was unreasonably refused by the Planning Committee, contrary to officers' advice and detailed reports presented at two different meetings, without the benefit of a site visit.

Members of the Committee were provided with a robust report that confirmed the patio would not be out of character or excessive in scale at the property and that neighbours' amenities would not be adversely affected. Despite this advice and detailed measurements supporting the officer's conclusions, they were minded to refuse permission. This decision centred around a perceived notion, an assumption, rather than the facts before them or the benefit of a site visit. It is not possible to make such judgements contrary to the robust recommendations from a committee room.

The appellant has incurred unnecessary costs in pursuing an appeal against this refusal of planning permission. In light of this it is respectfully requested that an award of costs be made in favour of the appellant.

Yours faithfully

A. Munday

Alex Munday MRTPI