

EASTLEIGH BOROUGH COUNCIL

Town and Country Planning Act 1990

LOCAL PLANNING AUTHORITY'S COSTS REBUTTAL

63 Underwood Road, Bishopstoke, Eastleigh,

Hampshire, SO50 6FX

Appeal by: Dr Gary Chaffey

Planning Inspectorate Reference: APP/W1715/W/23/3329598

Eastleigh Borough Council Reference: F/22/94422

December 2023

1.0 Introduction

- 1.1 This statement by the Local Planning Authority (LPA) is in response to the Appellant's application for the award of costs against Eastleigh Borough Council, produced by Wessex Planning, dated 15th September 2023.
- 1.2 It is the LPA's understanding that a cost claim can only be awarded if it is demonstrated that the LPA has acted unreasonably (either procedurally or substantively) during the course of the application, and this has resulted in the Appellant incurring unnecessary costs. As set out within Paragraph: 030 Reference ID: 16-030-20140306 of the Planning Practice Guidance.

2.0 The Appellant's Grounds for Costs

- 2.1 Based on the Appellant's application for costs, it appears that a number of grounds have been highlighted, although all are related to the decision by the Bishopstoke, Fair Oak and Horton Heath Local Areas Committee to refuse the planning application, counter to the advice and recommendation of the planning case officer.
- 2.2 The first is that the appeal proposal was only submitted after positive pre-application advice from the case officer and Planning Manager following a previous delegated refusal for a detached dwelling (LPA Ref: F/22/93364). Whilst discussions were held, including a site meeting, at no point did the LPA state that planning approval would be granted for any of the options put forward. All pre-application discussions and opinions are given on a without prejudice basis and are not binding on any subsequent formal planning application. It was made quite clear within the case officer's E-mail response of 8th November 2022 (Appellant's Appendix 1) that "A more detailed assessment would of course be necessary to ensure the proposed parking and amenity provision combined with the resultant impact on overlooking, outlook, neighbouring amenity, trees and ecology would meet the necessary standards as set out in our adopted supplementary planning documents and local plan policies." As such, it was clear that further detailed assessment of that proposed was required before a more definitive opinion could be given. Ultimately the decision to submit a

formal application is up to the applicant/appellant, not the LPA. As such, it is refuted that any unreasonable behaviour on the part of the LPA has taken place or been demonstrated by the Appellant in relation to the officer advice given.

2.3 The second grounds set out is that the appellant revised the proposal based on the pre-application advice provided, and that case officer was supportive of the submitted scheme, sighting that the report provided to the committee was “both professional and thorough.” However, despite the officer recommendation to approve the application, the committee chose to overturn this recommendation and refuse the application.

2.4 Whilst a professional planning opinion was provided by the case officer, the Local Area Committee are entitled to take a differing view and can choose to go against officer advice, provided their decision is based on valid and reasonable planning grounds. This does not mean that the professional view of the case officer was ignored by the Committee, rather that they chose to place greater weight upon the comments of the Council’s Ecologist in relation to harm caused by the proposed development upon the neighbouring woodland SINC, which in the Committee’s opinion was sufficient to refuse the application.

2.4 The third grounds is that the Committee failed to substantiate their concerns and reasons for refusal. This is not the case. Whilst the committee minutes do not provide a verbatim record of the meeting, the meeting was video recorded. Should the Inspector choose to do so, it can be viewed via the following link:

[Bishopstoke, Fair Oak & Horton Heath Local Area Committee held on 28 June 2023 \(youtube.com\)](https://www.youtube.com/watch?v=...)

The appeal item starts at 1hr:28min with the case officer’s presentation, followed by public participation at 1hr:36min. Committee questions begin at 1hr:43mins, with formal debate beginning at 1hr:59mins. The item then concludes at 2hrs:12mins, with the vote to refuse the application being passed on a majority of three to one.

2.5 At almost half an hour of questions and debate, it is clear that the application was fully and carefully considered by the Committee members, who sufficiently

set out their concerns in order to allow officers to assist in drafting the reasons for refusal.

- 2.6 With regards to the comment that the committee did not provide its own evidence to substantiate their reasons for refusal (Appellant's Cost Claim paragraph 3.14), the LPA would question how this would be possible at the meeting without the Committee being accused of pre-determination? Notwithstanding, when reviewing the meeting recording, the Committee did clearly set out their concerns and reasoning for the decision to which they came. As such, it is considered that adequate reasoning for the decision was provided, with the application being refused on clear planning grounds.

3.0 Other Matters

- 3.1 With regards to the statement made in paragraph 3.16 of the Appellant's cost claim (now redacted), the LPA would refer the Inspector to the letter dated 8th December 2023 from Andy Grandfield, the Council's Service Director for Planning and Environment.

4.0 Conclusion

- 4.1 Whilst it is acknowledged that the case officer originally recommended the appeal submission for approval, based on their assessment and interpretation of local planning policy and guidance, it is not unreasonable for a planning committee to take a differing view and place greater weight upon certain aspects. In this instance the Committee were of the view that greater weight needed to be applied to the resulting impact of the development upon the neighbouring Woodland SINC, together with the quality of the private amenity space proposed. In their opinion, these were sufficient planning grounds on which to refuse the application. Although a differing view to that of the case officer, ultimately, it is the Committee's responsibility to make any planning decisions on behalf of the Local Planning Authority which have not been delegated back to officers.
- 4.2 As such, and in accordance with the Planning Practice Guidance – The Awards of Costs, the LPA is of the view that it has not behaved unreasonably.

Furthermore, the Appellant's cost application does not clearly demonstrate how the LPA's alleged unreasonable behaviour has resulted in unnecessary or wasted expense. As such the LPA respectfully requests that the Appellant's costs application is dismissed.