

Town and Country Planning Act 1990

Costs Appeal by Wessex Planning on behalf of Mr
Stephen Pryor

Moorgreen Farmhouse, Moorgreen Farm, Burnetts
Lane, West End, Southampton SO30 2HH

Planning Inspectorate Ref:
APP/W1715/W/23/3329709

Local Planning Authority Ref: F/23/95117

COST REBUTTAL
On behalf of Eastleigh Borough Council

January 2024

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 17 July 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 The appellant states that the LPA has behaved unreasonably because Members sought to refuse an application Officers sought to approve, whereby the Committee failed to take into account any other material consideration that may have indicated a decision otherwise than in strict accordance with the relevant Legislation, thus resulting in incurred expenses as part of this appeal.
- 2.2 The appellant makes reference to the NPPF which they state the Planning Committee took no account of. As well as stating that the wording 'intensification of new development within the countryside' is unclear. Paragraphs 3.6 and 3.7 of the appellants case interpret this intensification in two different ways; 1) having an impact on the character of the countryside, and 2) whether traffic would increase leading to a harmful impact on the countryside.
- 2.3 The LPA would advise that the 'intensification of new development within the countryside' relates to the use of the first floor as a holiday-let and its change of character of the existing building and associated residential dwelling/ planning unit. Whilst still falling within a residential use, a holiday-let would result in increased patronage altering the character of a family home, and associated outbuilding, which was approved as garage and store/ office at first floor. The intensification of the use would be harmful to the countryside as it is considered contrary to Policy S5 of the Local Plan. As set out within the Council's Statement of Case, the reason for refusal has not been satisfactorily addressed.
- 2.4 The LPA would advise that the intensification does not relate to the increase in traffic as the reason for refusal does not include any transport policies (DM13 (Transport) and DM14 (Parking)).
- 2.5 In Paragraph 3.8 of the appellants costs statement, the appellant suggests that it was unreasonable for the Committee to overturn the Officer's recommendation. The LPA would like to draw the Inspectors attention to the Council's Constitution (<https://www.eastleigh.gov.uk/media/13485/the-constitution-of-the-council-sept-2023.pdf>) which sets out when decisions can be delegated and when they are to attend Planning Committee.

- 2.6 For clarity, the Constitution requires planning applications to be determined at Committee if 3 or more Members of that specific Committee request the application be determined at the Committee. In this instance, and as set out within the Committee Report 4 Councillors: House (who is also the Leader of the Council), Gomer, Corben & Garton (who is the Chair of this specific Committee (HEWEB)) all requested this application be determined at Committee.
- 2.7 When taking an application to Committee, Officers are there to advise and assist Members decision making. Members do not have to agree with Officers recommendations, and this does not result in unreasonable behaviour.
- 2.8 The Planning Committee ultimately made the decision to refuse the application on the grounds of insufficient information with regard to the 're-use' of the building as set out within Policy S5. The LPA would highlight (and have set out within the Statement of Case) that the appellant has sought to justify why the proposals are acceptable, however have failed to provide the necessary information to demonstrate the proposals were a 're-use' of the existing building, and in paragraph 3.10 of their statement of case, actually acknowledge that the proposals are contrary to Policy S5. The decision to refuse the application on the grounds of non-compliance with Policy S5 was therefore not unreasonable.
- 2.9 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 Appellants 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 Appellants costs application is refused.