

Town and Country Planning Act 1990

Costs Appeal by
Mr Joe Martin

25 Southern Road, West End, Southampton, SO30 3ES

Planning Inspectorate Ref:
APP/W1715/W/23/3330473

Local Planning Authority Ref: H/23/95400

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, which has been produced by Wessex Planning (dated 29th 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 The appeal application was refused on the following ground:
- 2.2 The front boundary fencing, by reason of its design, height and prominent siting, results in a discordant addition. It has an unacceptable effect on the character and appearance of the street scene. The proposal is therefore contrary to Policy DM1 of the Eastleigh Borough Local Plan (2016-2036), Quality Places SPD (2011), and the contents of the National Planning Policy Framework (2021).
- 2.3 The Appellant states that the LPA has acted unreasonably on substantive grounds in that:
- An over-reliance was placed on the Urban Design Officer's consultation response (which accompanied the cladding application) and The Planning Officer did not independently review its contents.
 - The Planning Manager overruled the Planning Officer and failed to visit the site or consider the wider street scape.
 - Incorrect reference was given to the character area appraisal and quality places supplementary planning documents.
 - The LPA has taken an inconsistent approach to fencing applications within the locality.
- 2.4 The LPA refutes all of these claims.

Assessment

- 2.5 The Urban Design Officer's comments were sought in relation to the cladding application and although she mentions the appeal fence in passing her comments did not form part of the assessment of the fence application. The Planning Officer undertook her own independent assessment of the character of the site and locality, which included a site visit during which she studied the impact of the development from different aspects within the street scene.
- 2.6 It is acknowledged that the Planning Officer originally formed a different opinion to the Planning Manager on the acceptability of the scheme, which

can happen when assessing subjective matters such as design. However, the Planning Manager fully reviewed the file, and while he did not visit the site, he was able to study the site photos and other available information to reach an informed opinion. A discussion was had between the Manager and the Planning Officer who were able to come to an agreement regarding the merits of the case and outcome of the planning application.

- 2.7 While the Appellant disagrees with LPA's assessment, this does not make the assessment unreasonable. The Inspectors attention is drawn to the officer's delegated report, which provides a detailed and reasoned argument for refusing the development.

Supplementary Planning Documents

- 2.8 The Planning Officer reviewed the relevant supplementary planning documents as part of her assessment. However, only limited weight was given to the character area appraisal and quality places supplementary planning documents due to their relevance to the appeal proposal. The Planning Officer is within their remit to determine the amount of weight given to supplementary planning documents, which are for guidance only and do not form part of the development plan.

Other Examples of High Fencing

- 2.9 During the assessment process, The Planning Officer note examples of other high fencing in the wider locality, but these tended to be plots with rear gardens adjoining roads and therefore require a higher degree of privacy compared to the appeal proposal. The examples provided have their own individual characteristics and do not directly relate to the appeal proposal. The Inspector is respectfully reminded that planning applications should be determined on their own merits.

3.0 Conclusion

- 3.1 For the reasons set out above, the LPA considers that they have not acted unreasonably and respectfully requests that the Planning Inspector refuse the cost appeal.