

Town and Country Planning Act 1990

Costs Appeal by Tony Holt Design on behalf of Mr
Steve Simpson

13 Satchell Lane, Hamble-le-Rice, Southampton,
SO31 4HF

Planning Inspectorate Ref:

APP/W1715/D/24/3339148

Local Planning Authority Ref: H/23/95847

COST REBUTTAL

On Behalf of Eastleigh Borough Council

March 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, dated 18 March 2024.
- 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 with Paragraph: 030 Reference ID: 16-030-20140306 of the Planning Practise Guidance.

2.0 The Appellant's Grounds for an Award of Costs

- 2.1 The Appellant contends that the LPA acted unreasonably resulting in additional costs and expenses from having to appeal a planning application for a second time, despite working closely and positively with the Case Officer for the previously dismissed application and the application considered under the current appeal.
- 2.2 The Appellant contends that the Committee Members' reason for refusing the scheme was based on emotion and the responses of local residents rather than a proper planning review of the proposals and the information set out in the Case Officer's report.

3.0 LPA's Response

- 3.1.1 The LPA acknowledges that the Appellant worked proactively with the LPA particularly at the pre-application stage. However, it must be noted that pre-application advice is non-binding and any subsequent planning application will be subject to a consultation period where new issues may subsequently be introduced and must be taken into consideration during the initial assessment and the decision making process.
- 3.1.2 Procedurally, the LPA took into account the previously dismissed scheme in which the Planning Inspectorate refuted the LPA's concerns with regards to residential amenity and the impact upon the Hamble-le-Rice Conservation Area. This appeal decision was taken into account as a material consideration as noted in the Case Officer's report and conclusion summary when recommending approval.
- 3.1.3 It is imperative to emphasise that throughout the application process, the Case Officer maintained open and frequent communication with the Planning Agent. This proactive approach ensured that the Appellant was kept informed of the progress of their application.

3.2 Unreasonable Refusal by the Planning Committee

- 3.2.1 The Appellant contends that it was unreasonable for the Planning Committee Members to overturn the Case Officer's recommendation.
- 3.2.2 The LPA would like to draw the Inspector's attention to the Council's Constitution (<https://www.eastleigh.gov.uk/media/13485/the-constitution-of-the-council-sept-2023.pdf>), which outlines when decisions can be delegated and when they are to attend the Planning Committee.
- 3.2.3 For clarity, the Constitution requires that planning applications be determined at Committee if three or more Members of that specific Committee request it. In this

instance, as outlined in the Officer Report, three Councillors: Councillor Tonia Craig (who is the Chair of this specific Committee (BHH)), Councillor Liz Jarvis and Councillor Jane O'Sullivan requested this application be determined at the Committee.

- 3.2.4 When taking an application to the Committee, Case Officers are present to advise and assist Members in decision-making. However, Members are not obligated to agree with the Officer's recommendations and have the authority to exercise independent judgment in reaching decisions.
- 3.2.5 Members carefully considered the factual evidence presented in the Officer's Report and visual presentation which included detailed photographs of the appeal site. Local residents spoke in objection to the application and a written statement was read out on behalf of the Appellant to the Committee. Councillors asked questions of the Case Officer and debated the merits of the application proposals, which included consideration of the previous application and the previous Inspectors decision. Officers requested clarification as to the precise nature of the concerns raised by Members to ensure that the reason for refusal was clear and based on sound planning considerations. The committee debate can be viewed online via the following link (application starts at 2:06 hr): [Bursledon, Hamble & Hound Committee - 25 January 2024 \(youtube.com\)](#). To conclude, the Committee Members' decision was based on a thorough review of the information available to them and, whilst reaching a different conclusion to the Case Officer, the decision was based on sound planning grounds and supported by adopted Local Plan policy. Therefore, this does not constitute unreasonable behaviour.

4.0 Conclusion

- 4.1 The LPA has engaged with the Appellant through the planning process, making diligent efforts to negotiate a suitable scheme that could be recommended for approval to the Planning Committee.
- 4.2 In accordance with the Planning Practise Guidance – The Award 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 the Appellants costs application is refused.