

EASTLEIGH BOROUGH COUNCIL

**Town and Country Planning Act 1990 (As Amended by the
Planning and Compensation Act 1991) – Section 78**

LOCAL PLANNING AUTHORITY'S COSTS REBUTTAL

**Cherry Court, Salterns Lane, Bursledon, Southampton,
Hampshire, SO31 8DH**

Appeal by: Mr Patrick Reilly

Planning Inspectorate Reference: APP/W1715/W/24/3353355

Eastleigh Borough Council Reference: F/24/97376

December 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 7th October 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 within Paragraph: 30 Reference ID: 16-030-20140306 of the Planning Practice Guidance.

2.0 The Appellant's Grounds for Costs

- 2.1 The Appellant's application for costs sets out a number of grounds of what they believe to be unreasonable behaviour:
- By refusing to grant planning approval, the LPA has prevented and/or delayed development which should have been permitted;
 - The planning committee did not follow the recommendation of the planning officer and failed to substantiate their grounds for refusal, which were delegated back to officers to provide the formal wording;
 - The appeal scheme met the volume increase limit of Policy BU7 of the adopted Local Plan;
 - That the design was acceptable and developed with the assistance of the case officer and Winchester and Eastleigh Design Review Panel. It should not therefore have been refused;
 - That the committee failed to understand that the appeal scheme would be a betterment to views from the River Hamble, especially at night, and that as local councillors they should have known the scheme would not result in harm; and
 - That the committee failed to understand the LPA's current planning policy in relation to demolition within a conservation area, and that the requirements

of a superseded policy were applied when determining the appeal application.

2.2 In response the LPA would provide the following comments.

3.0 LPA Response

3.1 Preventing / delaying of an acceptable scheme:

Whilst the view of the Appellant is acknowledged, the LPA are a differing opinion as to the acceptability of the scheme proposed. Hence the LPA's decision to refuse planning permission. However, the acceptability of the scheme is now a matter for the appointed Planning Inspector to determine.

3.2 Failure to follow the advice of the planning officer and substantiate reasons for refusal:

Although it is acknowledged that the planning officer recommended the scheme for approval, subject to various conditions, the Local Area Committee in their role as the LPA in this instance, are not obliged to follow this recommendation if they disagree. The committee are entitled to put forward an alternative recommendation, including refusal, provided clear planning reasons are given.

3.3 In this instance, the LPA are of the opinion that three clear grounds for refusal were presented by the committee, including planning related justification for those reasons. The LPA would therefore strongly disagree with the suggestion that the reasons given were vague and unsubstantiated.

3.4 With regards to the reasons being delegated back to officers, this is incorrect. The grounds for refusal were clearly set out by the committee, with the final wording only being delegated back to officers. This is accepted practice for committee amendments and recommendation overturns, to ensure that reasons given on a decision notice are clear, concise and structured in the correct

planning format. At no point during the committee meeting did officers suggest any possible reasons for refusal.

3.5 Policy BU7 25% volume limit:

This element of Local Plan Policy BU7 did not form any part of the reasons for refusal. The LPA are therefore unclear as to why this has been raised.

3.6 Design was acceptable:

The discussions between the Appellant and the planning case officer are acknowledged, as are the comments received by the Winchester and Eastleigh Design Review Panel, during the course of developing the appeal scheme. Whilst a positive and proactive approach was used by both parties, ultimately, the planning committee in their role as the LPA were of the view that the scheme presented was not appropriate for the site's position within the Old Bursledon Conservation and Special Policies Areas. The reasons for this are set out in the LPA's appeal statement and will be considered by the Appeal Inspector.

3.7 Views from River Hamble:

The Appellant's opinion in relation to the impact of the appeal development when Viewed from the River Hamble are acknowledged. However, the LPA is of a differing opinion as set out within the LPA's appeal statement.

3.8 With regards to the committee members being local councillors, the LPA would take a differing view to that set out by the Appellant. As local councillors, they are very knowledgeable and familiar with the area. That being the case, their concerns with regards to the impact of the appeal development upon views from the River Hamble are valid and hold significant weight. Simply because the committee have taken a differing view on this issue, does not mean that it is incorrect.

3.9 Although the submission of additional nighttime images in support of this appeal are acknowledged and helpful, the LPA would highlight that these images were not available at the time of the committee determination. As such, it was

reasonable that the second reason for refusal relating to insufficient information being available was included.

3.10 Demolition within a Conservation Area:

It is acknowledged that part of the committee's discussions made reference to policies within the previous and now superseded Local Plan relating to the requirements for demolition within a conservation area. However, at no point did these superseded requirements form any part of the third reason for refusal. Rather, it was a wider discussion on the need to consider reintroducing these requirements as part of the on-going review of the currently adopted Local Plan.

4.0 **Conclusion**

- 4.1 Whilst the Appellant's disappointment with the refusal of the application is noted, especially following a positive recommendation by the planning case officer, the LPA is of the view that it did determine the application in accordance with the current relevant policies of the adopted Eastleigh Borough Local Plan (2016-2036) and Supplementary Planning Documents. The reasons for refusal were clear and concise and have been backed up within the LPA's formal appeal statement.
- 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.