

# APPEAL: CLAIM FOR AN AWARD OF COSTS

MAY 2025

BARN COURT  
HIGH STREET  
BURSLEDON  
SO31 8DL

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## 1. INFORMATION ABOUT THE CLAIMANT

|                |                 |                      |                                                     |
|----------------|-----------------|----------------------|-----------------------------------------------------|
| <b>NAME</b>    | Mr B Wright     | <b>AGENT NAME</b>    | Mr O Farr                                           |
| <b>COMPANY</b> | n/a             | <b>AGENT COMPANY</b> | Applecore PDM                                       |
| <b>STATUS</b>  | Owner/Applicant | <b>AGENT ADDRESS</b> | 21 Middle Road, Park Gate,<br>Southampton, SO31 7GH |
|                |                 | <b>AGENT EMAIL</b>   | o.farr@applecorepdm.com                             |
|                |                 | <b>AGENT PHONE</b>   | 07551 606 099                                       |

## 2. INFORMATION ABOUT THE PARTY BEING CLAIMED AGAINST

|                |                                                                      |
|----------------|----------------------------------------------------------------------|
| <b>NAME</b>    | Eastleigh Borough Council                                            |
| <b>ADDRESS</b> | Eastleigh House, Upper Market Street, Eastleigh, Hampshire, SO50 9YN |
| <b>STATUS</b>  | Local Planning Authority                                             |

## 3. INFORMATION ABOUT THE ASSOCIATED APPEAL

|                                           |                                                                                           |
|-------------------------------------------|-------------------------------------------------------------------------------------------|
| <b>APPEAL LODGED?</b>                     | Yes                                                                                       |
| <b>TYPE OF APPEAL</b>                     | Non-Determination                                                                         |
| <b>PLANNING INSPECTORATE REFERENCE</b>    | TBC                                                                                       |
| <b>LOCAL PLANNING AUTHORITY REFERENCE</b> | H/24/98637                                                                                |
| <b>NAME OF LOCAL PLANNING AUTHORITY</b>   | Eastleigh Borough Council                                                                 |
| <b>DESCRIPTION OF DEVELOPMENT</b>         | Conversion of existing detached garden store to an annexe ancillary to the host dwelling. |
| <b>ADDRESS OF SITE</b>                    | Barn Court, High Street, Bursledon, Southampton, SO31 8DL                                 |

## 4. CLAIM FOR COSTS

An award of costs is always at the Inspector's or Secretary of State's discretion. But they would normally make an award if:

- one of the parties has applied for costs at the appropriate stage
- a party has behaved 'unreasonably'; and
- this 'unreasonable' behaviour has caused the applicant for costs to incur or waste expense unnecessarily.

All three conditions need to be met, and the appellant believes all three conditions have been met.

Local planning authorities are at risk of having to award costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- Preventing or delaying a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- Failure to produce evidence to substantiate each reason for refusal on appeal vague or inaccurate assumptions about a proposal's impact, which are unsupported by any objective evidence.
- Refusing planning permission on a planning issue which could have been dealt with by conditions also risk an award of costs, when it can be established that suitable conditions would enable the proposed development to go ahead
- Acting contrary to, or not following, well-established case law

- Persisting in delaying a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
- Not determining similar cases in a fair and consistent manner
- Failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances
- Refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage
- Imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework, on planning conditions and obligations
- Refusing to enter into preapplication discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal
- If the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn
- No credible evidence to substantiate the reasons for refusal

In this instance, it is considered that Eastleigh Borough Council have triggered this application for a Costs Award in the following ways:

- Preventing or delaying a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- Not determining similar cases in a fair and consistent manner
- Failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances

## 5. EXAMINING EACH GROUND

**Preventing or delaying a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.**

The application has been delayed for almost six months at the time of writing, starting with a delayed validation (forgivable due to time of year), a series of requests for information, investigations into matters not associated with the subject application, and finally the irregular schedule of local area committee meetings, eventually leading to an unnecessary deferral. The planning officers report was concise and clear, and the information provided to the LPA was as requested. The Local Area Committee showed little interest in the application before them, against the recommendation of the planning officer, and chose to defer for reasons not related to the application. The proposed development is compliant with local and national policy, and the appellant is being penalised due to what appeared to be a pre-determined and vindictive opposition to the application. It is thought there is something to be read into the hostility presented, but there is no evidence to confirm. Nonetheless, the development should have clearly been permitted.

### **Not determining similar cases in a fair and consistent manner**

Whilst the LPAs online register is not the easiest to navigate, it is possible to locate similar conversions of garages and outbuildings to ancillary residential use, that were not called in to a committee hearing or subject to a 6-month delay in determination.

Having looked through the agendas for all of this particular committee since the start of 2024, there are no applications of this nature subject to such scrutiny, with much larger householder extensions regularly approved. Indeed, the actual application concerning the construction of the store was determined under delegated powers. Whilst there may have been a combination of local objections and politics at play this time, it is interesting that those that felt the application could not be determined under delegated powers just happened to be the leading members of the committee.

**Failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances**

The structure itself was approved, and there was no deviation from the approved plans. The only change in circumstances is that of the appellants personal life. This is not a material planning consideration. Furthermore, the building is within the curtilage of the existing dwelling, and whether ancillary or incidental, it does not comprise a separate planning unit or fall within a different use classification.

## **6. CONCLUSION**

Whilst fault is considered to be directly the result of the behaviour of the Local Area Committee, they ultimately hold sway over the LPA, and therefore it must be considered the LPA have handled the application in an unreasonable manner. The appellant would like to reiterate that they do not consider the planning officer is at fault, and would think that had the committee members not intervened, with items not considered to be a part of the application before them, the application would have been determined in an acceptable timescale. The members of the committee have produced no evidence, or any planning related reason related to this application, as to why the application needed to be deferred.

The appellant was made to feel uncomfortable and unwelcome at the meeting, and has little faith that a) the deferred application would be either be heard, or decided in June, or that b) the committee would approach the application with an open mind.

It was therefore decided that submitting an appeal would be the best option, with regard to timescale and an unbiased approach. This has come at further delay and expense to the appellant, and therefore it is respectfully requested that the award for costs is granted.