



## Costs Decision

Site visit made on 28 September 2022

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 March 2023**

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### **Costs application in relation to Appeal Ref: APP/J1535/W/22/3291871 76 Algers Road, Loughton IG10 4NF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Islandbridge Algers Ltd for a full award of costs against Epping Forest District Council.
  - The appeal was against a refusal to grant planning permission for 'demolition of existing dwelling and replacement with new building consisting of six flats'.
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### **Decision**

1. A full award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where a local planning authority fails to produce evidence to substantiate each reason for refusal on appeal or where it refuses to enter into pre-application 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.
4. The Council suggests it is concerned by the six-fold increase in dwelling numbers on the site and the effects of this on the Epping Forest SAC. I acknowledge that Committee members are not duty bound to accept the recommendations of its officers. However, what is not clear from the Council's evidence is why it disagreed with its Officers that the significant adverse effects on the integrity of the Epping Forest SAC could not be mitigated in this instance in line with its strategies for addressing such effects. The Committee report indicated that the appellant had agreed to enter into an appropriate legal agreement to secure the necessary mitigation contributions at that time. I have no reason to doubt that the required planning obligation would have been forthcoming had the Council resolved to grant planning permission subject to its provision.
5. If the Council's concerns related to there being no Electric Vehicle Charging Points to serve the development, the Council has not produced any detailed

evidence to demonstrate that on-site EVCPs or a payment towards off-site EVCPs are specific requirement of its policies or its SAC mitigation strategies in instances where there is no on-site parking.

6. Whether or not there was pre-application advice in respect of a subsequent planning application does not alter my conclusions which specifically relate to this appeal and the planning application which led to it.

### **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Epping Forest District Council shall pay to Islandbridge Algers Ltd, the full costs in the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Epping Forest District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*M Russell*

INSPECTOR