



## Costs Decision

Site visit made on 10 November 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12<sup>th</sup> January 2024**

---

### **Costs application in relation to Appeal Ref: APP/L2250/W/22/3312303 Land adjoining 39 Victoria Road West, Littlestone, Kent TN28 8ND**

- 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 Legal & General Modular Homes for a full award of costs against Folkestone and Hythe District Council.
  - The appeal was against the refusal to grant approval for reserved matters of scale, layout, appearance and landscaping pursuant to condition 1 of outline planning permission ref Y18/0768/FH.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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. The applicant considers that the Council behaved unreasonably in their determination of the reserved matters application.
3. The transcript of the Committee meeting demonstrates that some members persisted that the extent of development, being 80 homes, was too much for the site, and it is not clear that they had regard to the specific proposals in the reserved matters application, which were for consideration. The decision appears to have been taken to refuse the proposal for being over-intensive, without clear identification or discussion of the harm arising, which was instead provided later in the discussion. Neither is it apparent why a lesser scheme for 70 homes, which members may have accepted, would have been less harmful in planning terms. This raises significant concern about the way in which that decision was reached and demonstrates a failure to approach the decision in a positive and creative way, as set out in the National Planning Policy Framework.
4. Notwithstanding my concerns for the Committee's deliberations, the reason for refusal which emerged made reference to issues which were relevant to the determination of the reserved matters, referring to harm arising from the layout and design in the context of the surrounding area. It makes reference to local and national policy surrounding those issues and this was substantiated by the Council's appeal statement.
5. While these were not issues which had been raised previously, the Committee were not bound to agree with the views of its Officers. Neither do I consider

that the application was necessarily one that should have been granted and the reserved matters were required to be subject to their own scrutiny.

6. Considered as a whole, I do not find that the Council demonstrated unreasonable behaviour which resulted in the applicant incurring unnecessary or wasted expense in the appeal process. As such, the application for costs does not succeed.

*C Shearing*

INSPECTOR