



Costs Decision

Hearing held on 15 December 2021

Site visit made on 16 December 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2022

Costs application in relation to Appeal Ref: APP/P1560/W/20/3260443 Land North of Wick Lane, Ardleigh, CO7 7NS

- 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 Tendring District Council for a full award of costs against David Salmon and Land Allocation Ltd.
 - The appeal was against the refusal of outline planning permission including access, with all other matters reserved, for up to 50 residential dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against appellants and may be either procedural in regard to behaviour in relation to completing the appeal process or substantive which relates to the planning merits of the appeal. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding.
3. The Council considers that the proposal is fundamentally contrary to the spatial strategy for the area and it remains a major housing development, on substantially the same site, where a previous Inspector held the proposal to be unacceptable when applying the tilted balance.
4. However, the current appeal scheme is different, in that it proposes a reduced scale of development and the Council has now adopted the North Essex Authorities Shared Strategic Section 1 Plan. Furthermore, Section 2 of the Tendring District Local Plan 2013-2033 and Beyond was at an advanced stage at the time the appeal was under consideration and the policies could be afforded greater weight. This document has subsequently been adopted.
5. Although, ultimately, the appeal was not successful, the arguments advanced by the appellant with respect to the appeal were not wholly without rationale, nor were they so intrinsically flawed as to be illogical and entirely without hope of success. In these circumstances it is not unreasonable for the appellant to seek to have their arguments tested through the appeal process.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G. Pannell

INSPECTOR