



## Costs Decision

Hearing held on 27 February 2024

Site visit made on 27 February 2024

**by A Price BSc MA MRTPI**

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

**Decision date: 25<sup>th</sup> March 2024**

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### **Costs application in relation to Appeal Ref: APP/X1545/W/23/3328131 Wycke View Farm, Main Road, Mundon, Essex CM9 6PB**

- 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 Mr & Mrs Lynne Attfield for a full award of costs against Maldon District Council.
  - The appeal was against the refusal to grant planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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### **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.
3. There are several strands to the applicant's case for an award of costs. In summary, the applicant sets out that the council has acted unreasonably on a number of procedural grounds. This includes a lack of co-operation, delay in providing information and meeting deadlines, not agreeing a statement of common ground in a timely manner and the withdrawal of reasons for refusal. The applicant also sets out that the council has acted unreasonably on a number of substantive grounds, including preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal and acting contrary to well established case law.
4. Planning law is clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The Council's reason for refusal is set out in its decision notice. This reason is complete, precise, specific and relevant to the application. I have found that this reason was adequately substantiated by the Council in its officer report. I note that this reason for refusal was later withdrawn by the Council based on the applicant's evidence. This is not unheard of, and, in any event, I consider that the reason for refusal was based on planning judgement at the time of the original decision.
5. I accept that the Council did not meet its timeline in respect of providing its statement of case, received instead some days later. This is far from ideal. However, in this case, I do not consider that this affected the overall course of

the appeal process or resulted in unnecessary delay. Whilst the Council did not formally set out its agreement to the applicant's statement of common ground, comments on this were set out within its statement of case. These were further explored at the Hearing.

6. I note the applicant's concerns relating to the Council's statement of case, and that additional matters were raised. Nevertheless, I consider that the points discussed in that statement would likely have come out during discussions at the Hearing in any case. That the applicant applied for a subsequent planning application under Ref 23/00628/VAR is also noted. However, that application was also refused. Any alleged costs associated with that would be a matter for an appeal relating to that case.
7. I understand the frustration of the applicant in respect of communication with the Council. Nevertheless, I am not convinced from the evidence before me that the Council's behaviour was manifestly uncooperative during either the course of the application or appeal.
8. Overall, I am satisfied that the Council's overall determination of the application, and its reasoning, was credible and that it was entitled to reach the decision it did. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*A Price*

INSPECTOR