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## Costs Decision

Site visit made on 19 December 2024

**by G Pannell BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> January 2025

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### **Costs application in relation to Appeal Ref: APP/C1570/W/24/3343058**

- 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 Hambleton Luxury Developments Limited for a full award of costs against Uttlesford District Council.
- The appeal was against the refusal of planning permission for erection of 1 no. dwelling complete with all related works including access.

**Land East Of Oaklea, Causeway End Road, Felsted , Essex , CM6 3LU**

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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **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. The Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. In this instance a previous appeal decision was dismissed on the site, but the Inspector recognised that part of development, which is broadly similar to that before me, would not result in harm to the character and appearance of the area. Furthermore the Inspector outlined that the appeal site was considered to be in an appropriate location having regard to access to services and facilities.
5. However, the Council have refused the current appeal citing the same reasons for refusal in relation to character and appearance and the location of development, with the remainder of the reasons for refusal having been resolved as part of this appeal.
6. I consider that the Council should have had regard to the previous Inspectors decision and given this greater consideration in particular as the circumstances in relation to a lack of 5 year housing land supply remain.
7. Furthermore, the Council's case in relation to character and appearance was poorly articulated, with the officers report setting out under its section titled "The design of the proposal and its impact upon the character of the countryside" that the proposal would be of an acceptable size and scale and that it would not dominate the road or street scene. The Council has failed in its statement of case to identify how the

- proposal would harm the open character and appearance of the site, or how it failed to protect or enhance the character of the countryside.
8. The Council in responding to the appellant's statement of case also failed to take the opportunity to respond to the points made in relation to the previous Inspectors findings. This would have been an opportunity for the Council to set out its reasons for coming to a different view, instead it referred back to its officer report which confirmed the design was acceptable.
  9. In relation to whether the site was in a sustainable location the Council indicate that the site would require future occupiers to travel by car to services and facilities, but make no reference to the Inspector's earlier findings in this regard where they concluded that future occupiers would not be solely reliant on the private car. Again no reference has been given in the Council's evidence as to why they have reached a different view.
  10. On this basis I consider that there was a reasonable expectation from the applicant that their application would be considered having regard to the findings of the previous appeal decision and it follows that I agree that the Council has acted unreasonably in this case.
  11. The Council did review their case in light of the evidence provided by the applicant in relation to highway matters and the mitigation for the Black Water Estuary SPA and Ramsar Site having been secured. However, had the Council not refused the application on the matters of principle that had previously been considered at appeal, the applicant may have chosen to resolve these matters directly with the Council, avoiding the costs associated with making the appeal.
  12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

### **Costs Order**

13. 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 Uttlesford District Council shall pay to Hambleton Luxury Developments Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Uttlesford 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.

*G Pannell*

INSPECTOR