



Costs Decision

Site visit made on 21 January 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Costs application in relation to Appeal Ref: APP/J1535/W/24/3346990

Mantin, Harlow Common, Hastingwood, Harlow, Essex CM17 9ND

- 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 R Allen of Mini Dolphins LLP for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the retrospective change of use of existing domestic swimming pool to mixed-use of domestic (use class C3) and community use (use class F2(d)).
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and that behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is seeking to recover the full costs incurred in the appeal process. The applicant considers that the Council behaved unreasonably as it failed to substantiate its reasons for refusal and did not adequately assess the impact of the proposed development against all relevant Local Plan policies. Further, the applicant considers that the Council failed to engage with him and request additional relevant information during the determination period which could have overcome the reasons for refusal.
4. The Council's case comprises its appeal statement (the statement) and planning officer's report (the report). Its assessment of the harm to living conditions and impact on the green belt is set out in the relevant subsections in the report. In addition, the Council's appeal statement provides its responses on the applicant's grounds of appeal. As can be seen from my appeal decision, I have agreed with the Council's assessment and have dismissed the appeal, concluding that the reasons given by the Council could be substantiated.
5. The report lists the most relevant policies from the Epping Forest District Local Plan 2023 (LP). Ideally, it would have clearly outlined how the Council had assessed the proposal against the test in paragraph 4.30 of the LP. This states that 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other material considerations'.

6. Nevertheless, the report acknowledges the community benefit from the operation of the swimming pool as a commercial use but concludes that the proposal is not acceptable due to its impact on the Green Belt and the significant negative impact on neighbouring amenity. Further, the statement indicates that the community facilities do not clearly outweigh the significant harm that would be caused by reason of inappropriate development. Therefore, I consider that the Council has adequately assessed the impact of the proposed development against the relevant Local Plan policies and tests.
7. Sufficient information was submitted to enable the Council to determine the application. As such, it was not necessary for the Council to engage with the applicant as this would not have changed its decision to refuse the planning application or its reasons for refusing it.
8. The applicant refers to errors in the report relating to incorrect paragraph numbers in the National Planning Policy Framework (the Framework) and reference to a secondary access which did not form part of the proposal. The Council acknowledges these mistakes, but the report subsequently quoted the correct sections of the Framework. Further, the part of the report which assessed impacts on living conditions did not refer to the secondary access and this did not form part of the relevant reason for refusal. Therefore, these errors did not affect the outcome of the planning application to the Council.
9. In view of all the above points, I do not consider that the Council's behaviour has been unreasonable. It thus follows that the applicant has not incurred any unnecessary expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Wright

INSPECTOR