



Costs Decision

Site visit made on 14 February 2025

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

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Costs application in relation to Appeal Ref: APP/X1545/W/24/3348669

Land North of Captains Wood Road, Great Totham, Essex CM9 8PU

- 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 Michael Cork, Mr Terry Jenkins and Ms Sue May for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of the Council to grant planning permission for development described as 'two self build custom designed dwellings'.
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Decision

1. The application for 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 applicants concerns relate to the Council's consideration of its position in respect of self-build homes and its treatment of the Unilateral Undertaking (the UU).
3. The applicants consider the Council failed to give appropriate recognition to its position regarding self-build dwellings, including failure to have regard to evidence which emerged from a Freedom of Information request. The result of a Freedom of Information request found that there had been no applications granted for self builds within the parish of Great Totham at 11 March 2024. The Council's Statement of Case with the appeal referenced three examples granted since, albeit some were a distance from the appeal site. Despite the dispute on this matter, the Council's Officer Report and Statement of Case for the appeal adequately explained its concerns in this respect, and considered the proposal and supporting information against the provisions of Policy GTO1 of the Totham Neighbourhood Plan. While the applicants disagree with the Council's findings and the weight which was afforded to various factors in reaching its decision, I do not find evidence of unreasonable behaviour in this regard. Furthermore, given the conflict with the remaining parts of GTO1 and the other policies forming the spatial strategy, it is not apparent that the appeal would have been avoided altogether, even if an identified local need had been agreed.
4. The applicants assert that the Council failed to substantiate why the UU was unacceptable and the Council have evidenced emails which demonstrate their concerns were communicated with the applicants in December 2023. Those emails confirmed the general content of the UU to be acceptable, but that checking and monitoring fees were required, which the Council communicates on its website. I do

not have sufficient details to suggest whether the Council's approach was inconsistent with an earlier decision, although the chain of emails between the main parties in December 2023 demonstrate the Council sought to clarify whether the checking and monitoring fees had been paid on the previous UU. While I have not agreed with the Council based on the information which was provided with the appeal, I do not consider these events amounted to unreasonable behaviour, given the Council communicated the reasons why the UU was not accepted.

5. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated and a full award of costs would not be justified.

C Shearing

INSPECTOR