



Costs Decision

Site visit made on 23 April 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th May 2025

Costs application in relation to Appeal Ref: APP/P1560/W/24/3349586

Land adjacent Church Lane, Weeley Heath CO16 9DN

- 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 Akers for a full award of costs against Tendring District Council.
 - The appeal was against the refusal of planning permission for the erection of one dwelling.
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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. The PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it fails to substantiate its reasons for refusal at appeal, and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The appellant has submitted their claim on the basis that the Council has behaved unreasonably on substantive grounds. There are four grounds on which the costs claim is based.
4. Firstly, the Council is said to have failed to demonstrate that a single dwelling almost encircled by the Settlement Development Boundary (SDB) would result in a strategic concern over the location of development. As set out in my decision, the strategic policies relating to the spatial strategy for North Essex are delivered with the aim of, amongst other things, maintaining the distinctive character and role of settlements and the conservation and enhancement of the natural environment. This is addressed in the officer's report and the Council's statement of case. I do not therefore find that unreasonable behaviour in this regard.
5. The second ground concerns a conflict with the views of the Council's tree and landscape officer. As evidenced in the documents submitted with the appeal, the tree officer provided comments on 9 October 2023 and 20 December 2023. The e-mail of 20 December stated 'no further comments' and was listed in the officer's report. The e-mail confirmed the tree officer's withdrawal of comments dated 17 October 2023 which referred to an enforcement investigation. The officer's report reflects the comments provided by the tree and landscape officer. I have necessarily come to my own judgement regarding the group value of the woodland

and the contribution it makes, as a whole, to the character and appearance of the area.

6. Thirdly, the Council is said to have not relied on objective evidence in forming their view regarding the potential effect of the surrounding trees on the living conditions of future occupiers of the house. Whilst I do not agree with the Council's assessment in this case, I consider the issue is finely balanced and a matter of planning judgement as to the overall effect of the trees in relation to the living conditions and pressure for future tree works as a result. The Council has set out their reasoning behind their decision in this respect with reference to the tree and landscape officer's assessment along with previous appeal decisions and the development plan.
7. Finally, the Council is said to have behaved unreasonably with regard to ecology matters. The Council has clarified that it is not usual practice for the ecology officer to carry out a site visit. I note Tendring Local Plan Section 2 Policy PPL4 requires applications to be accompanied by an appropriate ecological assessment. As set out in my decision, no updated Preliminary Ecological Appraisal (PEA) was submitted with the planning application or appeal and the PEA submitted as part of a previous planning application was several years out of date. The ecology officer in carrying out a desktop assessment had no updated information before them. As reflected in my decision, I agree with the assessment of the Council in this respect.
8. The case set out by the Council in their officer's report and statement of case was sufficiently clear. It was based on local and national planning policies. I am satisfied that the Council gave a reasoned assessment for their decision, and it was not unreasonable for them to have refused the planning application. They have not prevented or delayed development which should clearly have been permitted
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and an award of costs is not warranted.

L Francis

INSPECTOR