
Costs Decision

Site visit made on 17 June 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2025

Costs application in relation to Appeal Ref: APP/X1545/W/24/3354918 Manor Farm, Walden House Road, Great Totham CM9 8PN

- 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 Andrew Marven (Q Square) for a full award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for the removal of condition 7 on approved planning permission 19/00472/FUL (Extension to workshop).
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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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The appellant contends that the Council's reasoning in the Officer Report was unreasonable with regards to the implications of the Finney judgement¹ (*Finney*) and that a lack of evidence was provided to justify the proposal would cause harm.
4. The Officer Report set out clearly why the proposal would not fall within the parameters of a Section 73 (s73) application. It referred to relevant case law and reasoned why the proposed variation of Condition 7 would alter the nature of the development. The Council also rationally explored how the variation of the condition would allow a broad range of Class E(g) uses that could negatively impact the living conditions of neighbouring occupiers and alter the parking provision at the site which could in turn affect highway safety.
5. Given the lack of clarity over the potential uses at the site, the Council made a general assessment of the impacts of the proposal. This was not an unreasonable stance to adopt. The onus is on the applicant to provide sufficient information for the Council to assess. In any case, even without the concerns about amenity and parking, the proposal was found to be outside the scope of a s73 application. Therefore, an appeal would have needed to be submitted anyway.
6. Furthermore, the appellant opines that the Council could have used alternative or additional conditions to safeguard against any harm. However, it would not be

¹ John Leslie Finney v Welsh Ministers & Carmarthenshire County Council, Energiekontor (UK) Limited [2019] EWCA Civ 1868

feasible to control all prospective uses and potential impacts through the imposition of planning conditions. I therefore find that the Council has not acted unreasonably in not suggesting additional conditions.

7. I am satisfied on the basis of the evaluation of the planning merits set out in the Council's Officer Report that the Council has shown a clear rationale for its decisions in light of the disputed assessment over the variation of the condition and has provided a balanced commentary on the potential impacts of the proposal. A full and reasonable assessment of the proposal against relevant legislation, the Development Plan and other material considerations has therefore been undertaken by the Council during the course of the planning application. In the absence of any conclusive evidence to the contrary, I am unable to conclude that the Council has acted unreasonably in their assessment and determination of the proposed development.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Thomas Courtney

INSPECTOR