



Costs Decision

Hearing held on 3 April 2025

Site visit made on 3 April 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Costs application in relation to Appeal Ref: APP/X1545/W/24/3338556 Land at Manor Farm, Walden House Road, Great Totham Easting (x) 585350 Northing (y) 211900

- 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 Mersea Homes Ltd for a partial award of costs against Maldon District Council.
 - The appeal was against the refusal of planning permission for up to 49 new residential properties with all associated access, servicing, parking, landscaping, open space, drainage, utilities and associated infrastructure.
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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 first part of the costs claim relates to the submission of landscape evidence from the Council which the claimant states deviates from the Council's Statement of Case, and which it is suggested introduces issues of methodology and substance in terms of alleged landscape impacts not raised by the Council in the officer's report or decision notice.
4. It is clear from the officers report and decision notice that the Council had concern relating to the landscape impacts of the scheme. This will have been recognised by the appellant early in the appeal process given the statement of case on landscape and visual matters that was submitted. An LVA was earlier submitted with the planning application.
5. I accept that the Council stated within their appeal statement that they did not consider it necessary to respond to the appellant's Statement of Case on Landscape and Visual Matters or make any further comments on the LVA. However, that appeared to change and a Landscape Hearing Statement appears to have been submitted and accepted prior to one of the previously arranged and since cancelled Hearings.
6. The claimant states that the submission of this evidence has resulted in unnecessary or wasted expense in the appeal. However, whilst noting the timing of

the Council's submission, the preparation of more detailed landscape evidence on the basis of the Council's reason for refusal would not be an unexpected part of the appeal process given the substance of concerns of the Council and the submission by the appellant of a dedicated statement of case on landscape and visual matters.

7. Therefore, in relation to this matter, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.
8. The second part of the claim relates to concerns that the Council has not reviewed its case following on from changes over the period of time which meant that the Council can no longer demonstrate a five year housing land supply. However, those changes would not automatically mean that the Council would have to alter its position on the appeal or cease to defend the appeal. I note that other reasons for refusal were withdrawn once the Council no longer had concern over those issues.
9. I also note other appeal examples where the Council chose not to defend previous planning refusals relating to issues around those matters. However, there is nothing to indicate that those appeal sites shared identical circumstances. In spite of my conclusions outlined within the Decision Letter and whilst I note that the Council could have been clearer and more certain in its response to this second part of the costs claim which was put forward at the Hearing, I cannot come to the conclusion that it was unreasonable for the Council to choose to defend this particular case.
10. Therefore, in relation to this matter, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

T Burnham

INSPECTOR