
Costs Decision

Site visit made on 6 November 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 December 2025

Costs application in relation to Appeal Ref: APP/Z1510/W/25/3365443 Prested Hall, Prested Hall Chase, Feering, Essex CO5 9EE

- 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 J Bathla, Prested Hall for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of planning permission for Removal of existing Marquee and erection of a replacement marquee in a new location.
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Decision

1. The application for a full 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 examples of behaviour that may give rise to a substantive award against a local planning authority include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant outlines their view that the Council failed to assess the significant amount of submitted evidence, whilst the Council's delegated report contained factual inaccuracies, in particular in relation to the proximity of the nearest noise-sensitive receptors and a failure to account for noise mitigation measures.
5. I note that the applicant provided a significant amount of information and evidence including a Noise Management Plan, Noise Report, Noise Contour Plans, and other technical details relating to acoustic mitigation measures. Nevertheless, it can be seen, for the reasons given in my decision, that I agree with the Council that there were sufficient grounds for refusing the planning permission on matters relating to the impacts of noise on neighbouring occupiers. The Council's reasons and assessment are sufficiently clear in this case and identify harm. I am satisfied that the Council has shown that it was able to substantiate its reason for refusal. Consequently, I cannot agree that the Council has acted unreasonably in this case, and I do not consider that the appeal could have been avoided for this reason.
6. The Council's delegated report clearly sets out the planning history in relation to the existing pool house and the replacement dwelling. It also clearly distinguishes that

the replacement dwelling is located further away in an area outside the appeal site, whilst the pool house building is located within the appeal site, and is under the ownership of the applicant. Indeed, the delegated report confirms that the Council considered that in the event of residential redevelopment of the pool house building, planning conditions could be imposed to ensure that future occupiers are protected from harmful noise impacts. I note that the Council's Environmental Health Officer (EHO) refers to the replacement dwelling being 45 metres to the north east of the marquee. However, the Council's delegated report does not refer to distances, and the descriptions of the replacement dwelling and pool house within it demonstrate that the Planning Officer had not misunderstood the location of the replacement dwelling.

7. The applicant suggests that the Council's EHO did not consider the submitted Design and Materials Statement (DMS) when providing their first consultation response. The submitted evidence provided by the main parties includes email correspondence between the parties. This provides little to suggest that the Council failed to consider the DMS at this stage. Nevertheless, even if this were the case, the EHO's second consultation response refers to noise limiting measures including the acoustic lining and directional speaker system. There is no substantive evidence before me to suggest that the EHO did not consider all noise related evidence submitted by the applicant throughout the application process.
8. The applicant suggests that the Council applied disproportionate weight to the harm to neighbouring residents' living conditions. The Council undertook a planning balance within the delegated report. This articulates the various economic, social, heritage and environmental benefits associated with the proposal. Whilst acknowledging the differences between the parties' evidence in relation to the proposal's noise effects, it is clear that the Council identified a level of harm to neighbouring occupiers. The Council were entitled to afford this harm weight as they saw fit based on the evidence before them. It has not been clearly demonstrated that the weight they afforded was so excessive as to be unreasonable given their judgement of the noise harm to the neighbouring occupiers and conflict with the development plan as articulated within the decision notice.
9. The applicant contends that the Council misapplied local policies and National Planning Policy Framework (2024) requirements that noise impacts should be mitigated rather than being entirely eliminated. The applicant also suggests that planning conditions could have been utilised to resolve concerns about the proposal.
10. The PPG confirms that refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.
11. The Council's delegated report does not conclude that noise impacts must be eliminated entirely. However, local policies and the Framework clearly outline that the planning decisions should not have a harmful effect on the living conditions of nearby occupiers.
12. The Council's delegated report clearly sets out that the principle of the proposal is acceptable. It also explains that the Council considered that additional noise information was necessary prior to determination rather than leaving it to condition,

as it was not clear that conditions could adequately address the issues. Given the fundamental disagreement between the parties regarding the acceptability of the appellant's noise evidence and proposed mitigation, it seems unlikely that the reason for refusal could have been overcome through the use of planning conditions. Consequently, I cannot agree that the Council has acted unreasonably in this regard.

13. The submitted evidence indicates that several extensions of time (EoT) were sought by the main parties. There is disagreement between the parties as to whether extensions of time were agreed to by the applicant. The evidence before me indicates that the applicant suggested an EoT on 11th February 2025. The Council requested written confirmation of an EoT on 14th February 2025. The applicant confirmed on the same day that they would agree to an EoT subject to specific conditions, which the Council did not agree to. On 20th March 2025 the Council again sought to agree an EoT. The applicant confirmed on the same day that they did not agree to the EoT. Following this, the Council determined the application on 9th April 2025.
14. I note that the original EHO consultation comments were received by the Planning Officer and communicated to the applicant close to the application's original determination date. Nevertheless, during the determination of the application the Council requested, and accepted additional noise information and evidence. Whilst the Council ultimately chose to make its assessment on the information available at the time, I am satisfied that it communicated its reasons for determining the application with the applicant. I therefore do not find this approach to have been unreasonable.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

B Pattison

INSPECTOR