



Costs Decision

Site visit made on 19 November 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2025

Costs application in relation to Appeal Ref: APP/A1530/W/25/3373509

Playing Field, Brook Street, Dedham, Essex CO7 6AD

- 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 K Wilsher of Dedham Tennis Club for a partial award of costs against Colchester City Council.
 - The appeal was against the refusal of the Council to grant planning permission for installation of eight floodlights to outdoor tennis court.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

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 Applicant contends that in both its determination of the planning application and handling of the appeal, the Council (1) failed to engage with and assess detailed technical lighting evidence; (2) relied on selective quotations from non-statutory guidance and generalised assertions of harm not supported by objective evidence; (3) failed to identify the level of heritage harm and undertake the required public benefits balance; (4) mischaracterised the site as a “dark rural environment” and failed to recognise existing lighting and sports infrastructure; and (5) proposed conditions which implicitly accept that the scheme could be made acceptable.
4. Beginning with the first, second, and fourth points; I see no fault in the Council citing guidance in its delegated report (DR), including note 01/21 from the Institute for Lighting Professionals (the ILP note), as it is made clear that this is guidance rather than policy.
5. The DR contains selected excerpts from the ILP note, but I would not expect the note to be reproduced in its entirety. The title and number of the note is provided should a reader wish to peruse it. In any event, the DR relates to a decision taken under delegated powers. As such, it is not seeking to explain the ILP note to a decision maker who may be unfamiliar with it. I see no fault on the Council’s part in reproducing only selected parts of the guidance.
6. The ILP note states that floodlights angled at up to 85 degrees cause a “minimum” sky glow effect and “some” glare effect in respect of the ability to view the night sky. Having cited the ILP note, the DR does not then assess the proposed development

against the note, yet concludes that it would cause harm through increased light spill reducing dark skies, which would be highly visible and impactful over long distances. Neither element of this conclusion is explained, including how the Council arrived at it given the extent to which the design of the scheme was based on the advice in the ILP note. Indeed, the DR contains no evident recognition that the proposed development has been professionally designed to direct light in a controlled manner.

7. Furthermore, the DR contains no reference to the existing lighting near the appeal site, though it had been cited by the Applicant and was plainly relevant to the darkness of the site and surrounding area. Overall, it is not evident that the Council considered the technical details submitted by the Applicant or the implications of existing light sources at all in reaching its decision.
8. In its appeal statement of case, the Council says that the “suggested mitigation measures such as shields and low lux levels..... do not eliminate the material harm of introducing artificial lighting into a dark rural environment”.
9. Whether or not one finds it detailed enough to be convincing, to my mind this simple appraisal is sufficient to articulate the nature of the harm and to explain the basis of the decision. It was not, however, included in the DR. By the time it was provided the Applicant had already submitted the appeal, obtaining further supporting evidence in the form of an addendum Lighting Impact Assessment. This was procured to directly address the reason for refusal and the content of the DR. The cost of this, which is what the Applicant seeks to claim, could have been avoided had the Council made its subsequent appeal case as part of determining the application.
10. On the third point; The DR does not explicitly state whether the proposed development would result in substantial, or less than substantial, harm to the Dedham Conservation Area. That said, there is a section in the DR entitled ‘Planning Balance’ in which it is found that “the harm is considered to considerably outweigh the limited public benefits of this scheme”. The Council plainly undertook a balancing exercise which indicates that the level of harm was found less than substantial.
11. The balancing exercise was brief, with the public benefits addressed as follows: “The principle of extending the use of an existing tennis facility would benefit the 320 members of the tennis club and an increase in hours of potential use, could increase staffing hours on site enhancing local employment”. There was no explicit reference to the Colchester and Tendring Open Space Playing Pitch Outdoor Sports and Built Facility Overarching Strategy (2023), which the Applicant had cited. Even so, I see no reason why this brief summary should not serve adequately to recognise the benefits of the scheme, which had been set out in the application and were before the Council.
12. On the fifth point; The Council is expected to provide a list of suggested conditions in the event that the appeal is allowed. Doing so does not indicate any less of an objection to the proposal.

Conclusion

13. The PPG states that “Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector’s consideration of whether or not costs should be awarded”. It goes on to say that “vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis” may give rise to a substantive award against a local planning authority.
14. I find that the Council has demonstrated unreasonable behaviour in failing to objectively analyse and respond to the Applicant’s submissions when determining the application, leading to unnecessary expense in the form of an addendum Lighting Impact Assessment in the appeal.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Colchester City Council shall pay to Mr K Wilsher of Dedham Tennis Club the costs of the addendum Lighting Impact Assessment procured as part of the appeal.
16. The Applicant is now invited to submit to the Council, who have also been sent a copy of this decision, details of those costs with a view to reaching agreement as to the amount. If the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

A Knight

INSPECTOR