



Costs Decision

Site visit made on 22 January 2026

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 February 2026

Costs application in relation to Appeal Ref: APP/D1590/W/25/3374855

184 Eastern Esplanade, Southend on Sea SS1 3AA

- 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 Ms Teresa Jones for a partial award of costs against Southend-on-Sea City Council.
 - The appeal was against the refusal of planning permission for change of use from guesthouse C1 to dwellinghouse C3
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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.

Habitats Unilateral Undertaking

3. In relation to the habitats reason for refusal, the applicant argues that the Council failed to engage constructively and that the matter could have been resolved through a planning obligation. The PPG explains that unreasonable behaviour may include refusing permission on matters capable of being addressed by condition¹. However, the same is not said in relation to planning obligations. A condition can be imposed unilaterally by a Council, whereas a planning obligation requires the applicant to act. The Council did not refuse permission on a matter that could lawfully have been secured by condition. In this case, a monetary contribution needed to be secured by obligation to meet the Habitats Regulations.
4. It is unfortunate that the paid pre-application advice did not identify the Essex Coast designated sites or the need for RAMS mitigation. While the omission likely contributed to the applicant's surprise at the refusal, the presence of an adopted RAMS SPD meant that the requirement was clearly established and readily available. The PPG does not require the Council to provide continuous advice during determination.
5. Even if the Council's handling of the issue fell below the standard expected, both limbs of the PPG test must be satisfied. The preparation of a planning obligation was necessary regardless of when it was completed, and there is no evidence that

¹ Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

undertaking this during the appeal process resulted in additional or wasted expense. The procedural guide also requires applicants to submit a completed obligation when lodging an appeal. In this case the UU submitted at appeal was unsigned. The applicant was given multiple opportunities to resolve the issue, and the Council provided comments at appeal and in subsequent correspondence. This reflects a reasonable and cooperative approach.

Loss of tourist accommodation

6. Policy DM12 requires clear evidence of non-viability before visitor accommodation can be lost. I found the marketing and viability information sufficient to demonstrate professional management. The Council focused on the absence of business and marketing plans, which reflects a direct reading of the supporting text. Although I gave greater weight to different aspects of the policy, and reached a different conclusion, this does not amount to unreasonable behaviour.
7. The Council did not give feedback during the application, but the detailed pre-application advice provided clear guidance. The PPG does not require continued negotiation.
8. The delegated report offered limited commentary but did not dispute the viability evidence beyond the issue of business/marketing plans. This is a difference in planning judgement, not unreasonable conduct. The claimed factual errors stemmed from the red-line boundary and comparable cases were addressed in the Council's statement.

Conclusion

9. Having considered both the visitor accommodation and habitats matters, I am satisfied that the Council provided a clear and reasoned basis for its decision. In respect of Policy DM12, the Council's focus on the absence of business and marketing plans reflected a direct interpretation of the supporting text and amounted to a reasonable planning judgement, even though I reached a different conclusion on the evidence before me.
10. On the habitats issue, the need for a planning obligation was a requirement of the Habitats Regulations and could not have been addressed by condition. While the omission in the pre application advice is regrettable, there is no substantive evidence that this, or the Council's handling of the matter, resulted in unnecessary or wasted expense. The completion of a Unilateral Undertaking was necessary in any event, and the Council engaged appropriately during the appeal process.
11. Accordingly, I am not persuaded that the Council's conduct amounted to unreasonable behaviour or that the applicant incurred unnecessary or wasted expense. A costs award is therefore not justified.

R Lawrence

INSPECTOR