



Costs Decision

Site visit made on 17 February 2026

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2026

Costs application in relation to:

Appeal A Ref: APP/A1530/W/25/3376658

Appeal B Ref: APP/A1530/Y/25/3376659

Little House, High Street, Dedham, Essex CO7 6HJ

- In respect of Appeal A, 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).
 - In respect of Appeal B, the application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Bobby Jennings and Melissa Herring for a full award of costs against Colchester City Council.
 - The appeals were against the refusal of planning permission and listed building consent for 'replacement of the existing dormer windows, replacement roof tiles, re rendering and other associated works'.
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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 ('the 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. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given of unreasonable behaviour include a lack of co-operation with the other party and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
4. In this case, the appeal applications were made following the Council's refusal of applications for an earlier scheme¹, and having subsequently sought pre application advice from the Council.
5. The applicant indicates that the appeal scheme was designed to align with the design principles endorsed at the pre application stage. I have not been provided with full copies of the pre application advice issued by the Council, nor the draft proposal that was considered. However, the details of the advice received entered

¹ Application refs 240549 and 240550

on the application form include that *'the primary concern regarding the proposed scheme is the scale of the existing and proposed dormers, which need to be reduced in terms of width'*. The width of the dormers may have been reduced from the pre application stage, but that does not guarantee that the reduction would be sufficient to address the Council's concern in respect of the scale of the dormers overall. Despite the amendments made from the pre application scheme then and from the information before me, it was not in my view unreasonable for the Council to have maintained concerns over the proposed dormers in its assessment of the applications.

6. The applicant further highlights that the Council's pre application advice had indicated that *'the principle of enhancing the dormers with lead cheeks and further insulation are supported'*, but that there was a statement in the Council's officer report that *'the cheeks should be rendered, not clad in lead'*. This forms part of the 'Heritage' consultation response section of the report, and I note from copies of correspondence that this feedback was shared with the applicant which resulted in the proposed materials being amended. However, while it is unfortunate that the request appears to depart from the suggestion in pre application advice that the principle of lead cheeks would be acceptable, even formal pre application advice is not binding on the Council. Given also that the sides of the dormers are annotated as 'cheeks' on the submitted plans this request would not in my view be inconsistent with the Council's position seeking the removal of the thick dormer cheeks.
7. Moreover, the amendment to the dormer materials formed part of the submission of amended plans seeking to address the Council's wider concerns about the scale and design of the dormers. Noting the very limited nature of the changes required to amend the indicated materials and from the submitted details, I consider it likely that associated costs would have been negligible and it is unclear that this would in itself have resulted in unnecessary or wasted expenditure.
8. The applicant notes that the Heritage and Conservation Officer did not attend a scheduled pre application meeting, and that communication from the Council during the pre application process was intermittent and slow causing avoidable delays and expense. However, even if I were to find that this constituted unreasonable behaviour by the Council, the PPG is clear that costs can only be awarded in relation to unnecessary or wasted expense in the appeal process, and that costs that are unrelated to the appeal are ineligible.
9. Ultimately, the Council did provide formal written pre application advice to the applicant and on the basis of my findings above, I am not persuaded that the advice could be described as unreasonably inconsistent, nor that it has caused the applicant to incur unnecessary or wasted expense in the appeal process.
10. I acknowledge that the Council sought further revisions to the scheme during the application process. The applicant advises that they acted promptly to issue revised drawings and explanation of why some requested amendments were not feasible, but that the Council was slow to respond and offered no constructive technical dialogue. However, it is clear that the Council did engage with the applicant during the application process – offering feedback and seeking amendments both during the prescribed determination period and a relatively brief extension beyond this. Furthermore, the latest set of revised plans submitted by the applicant on 22 September 2025 may not have been formally acknowledged

by the Council, but they are noted and discussed in its reports on the applications indicating that they were taken into account in reaching the decisions.

11. Given the particular heritage sensitivity of the site which comprises a listed building located within a Conservation Area and the setting of other listed buildings, I also consider the Council's reliance on specialist advice provided by the Heritage and Conservation Officer during negotiations on the scheme to be a reasonable approach.
12. During negotiations, it would have been helpful for the Council to have provided application references for example schemes when they were requested by the applicant. I also note that the Council's suggestion that window frames should 'form the structural frame' of the dormers was later clarified to be a visual rather than structural requirement. Nevertheless, in my reading of the copies of correspondence provided, the thrust of the Council's advice during the applications stage and the basis of its concerns was adequately clear and consistent and provided without significant delay. Although the applicant disagrees with the Council's advice and position, that is not in itself evidence of unreasonable behaviour. There is also no obligation on the Council to provide detailed technical discussion or rebuttal in response to information that is put to it as part of negotiations.
13. In any event, the applicant may have incurred costs in preparing revisions and providing additional explanation to the Council during the course of the applications, but I have noted above that costs can only be awarded in relation to unnecessary or wasted expense in the appeal process, and that costs that are unrelated to the appeal are ineligible.
14. I appreciate that the applicant amended the proposal during the course of the applications and offered additional explanation to justify the design, but that is not compelling evidence that the final submitted proposal would necessarily be acceptable. I have found in my appeal decisions that the scheme would overall be acceptable, but that reflects a matter of planning judgement and I am not persuaded from the submissions that the Council behaved unreasonably in reaching a different view. On that basis, the appeal could not have been avoided.
15. Finally, I note that the Council's appeal statements were submitted late. However, the delay was short and the applicant was able to provide a response by the date of my site visit. In these circumstances, it is not clear that the late submission of the statements has caused the applicant to incur unnecessary or wasted expenditure in the appeal process.
16. For the reasons above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

J Bowyer
INSPECTOR