



Costs Decision

Site visit made on 19 March 2025

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

Costs application in relation to Appeal Ref: APP/Y2430/W/24/3349624

Land at Stygate Lane, Pickwell, Melton Mowbray LE14 2QN

- 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 S J Hazard for a full award of costs against Melton Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 4 No. poultry sheds 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. The PPG explains that the aim of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.
3. The appellant asserts that the Council has behaved unreasonably as:
 - The Council applied an incorrect characterisation of the landscape and visual impact and therefore wrongly considered there would be conflict with policies EN1, ENV8 and ENV13 of the Melton Local Plan [2018] (LP) and failed to take account of the proposed mitigation,
 - The Council's analysis that the proposal would be incongruous is confused. The Council's assertion that Bellmont Farm is a farmstead, and the appeal site is not and the justification for why the site needed to be developed rather than another, was not properly considered,
 - The Council identified conflict with policy CD1 of the Somersby Neighbourhood Plan [2021](NP), but did not explain how the policy was breached, but did explain that the materials proposed would enable the proposal to be appropriate in its rural setting. The Council sought mitigating landscaping and more trees than was proposed to screen the development from views that the Landscape and Visual Impact Assessment (LVIA) found did not require mitigation,

- The Council raised concerns that the proposed cut and fill would harm the wider landscape characteristics whilst the LVIA found that the proposal would be local to the site and would have no wider impacts,
- The Council states that the proposal would conflict with LP policy EN3 with respect to loss of green infrastructure, where no harm to ecological or biodiversity matters had been found by the Council's ecologist, and
- The Council identifies that the proposal was contrary to the National Planning Policy Framework (the Framework) with respect to valued landscapes but did not establish the site afforded such a designation.

Landscape and visual impacts

4. The appellant has asserted that the Council behaved unreasonably by coming to a different view on the effects of the proposal than that which was reached in the LVIA. Despite the conclusions of the LVIA, in my main decision I have found that the proposal would amount to moderate landscape harm and major/moderate adverse visual effects. The reasons for these conclusions are clearly set out in my main decision and support the Council's concerns.
5. The Council's officer report (OR) identifies that the proposed landscape mitigation would be modest and found this to be inadequate to reduce the impact of the development. Furthermore, the Council's Statement of Case expands this in finding that the mitigation measures would not adequately screen the development from view and would erode the enjoyment of and amenity of users of the footpath. As a result, the Council has provided a sufficient explanation of its concerns and has demonstrated that it had considered all the details provided to it in the proposal, including the mitigatory effects of the proposed planting.
6. Therefore, whilst the effect of the proposal on the character and appearance of the site and area is a matter of dispute between main parties, it is clear that the Council took into account mitigation measures when making its decision and provided sufficient reasoning to substantiate the reason for refusal. As such, this does not demonstrate that the Council behaved unreasonably.

Whether the proposal would be incongruous and alternative site considerations

7. The Council asserts that the proposal would be an incongruous form of development, as referenced in its reason for refusal and would thereby be in conflict with NP policy ENV8. This policy also requires development to respect the qualities, character and distinctiveness of the three identified character areas of the NP and to recognise the high value of the landscape.
8. In my main decision I have found that the proposal would be in breach of the latter requirements of the policy, hence finding conflict with the policy. Based on its agrarian nature and use of appropriate materials I did not find the proposal to be an incongruous addition to the area. As such, whilst I have not found that the scheme would be an incongruous addition, this finding has had only a limited bearing on my overall consideration of NP policy ENV8 and the merits of the proposal.
9. In terms of alternative site considerations, the appellant asserts that the Environmental Statement¹ (ES) clearly set out why the scheme had to be where it

¹ Environmental Statement, Ian Pick Associates, November 2022

was proposed. Section 4 of the ES discusses alternative sites. This explains, extremely briefly, that the appellant is a tenant farmer for most of the farm, with only the area shown on the location plan in blue (at appendix 1) being within the appellant's ownership. The location plan shows an area of land consisting of around 10 fields, bound by Stygate Lane to the north and the A606 and a waterway to the south. Although this area is constrained, it is substantially greater than the appeal site and appears to provide a range of site options that would create different effects on the landscape character and have different visual effects. As such, the evidence does not demonstrate that the alternative site assessment has illustrated why the specific site is the only one capable of being developed as asserted by the appellant.

NP policy CD1 and in seeking mitigation where none was required

10. NP policy CD1 requires all development to respect local character and, among other matters, be of an appropriate scale and height. The Council's OR found that the proposal would be of an inappropriate scale at paragraph 5.41. It reiterates this concerns at paragraph 5.31 of the Statement of Case. It has therefore adequately identified the conflict it has found with this policy.
11. The Council sought addition planting in part to address the requirements of policy NP ENV11 (requiring one tree for every 50sqm of development). It also sought additional planting to provide further screening to the development "from views from the wider area, particularly along the approach from the east along Stygate Lane" within the OR at paragraph 5.39. Unfortunately, the Council's Statement of Case does not expand on this assertion. In my main decision I agreed with the findings of the LVIA with respect to the visual impact of the proposal from viewpoints 4 and 5 (both on Stygate Lane) causing a very small magnitude of change. As a result, I did not find that additional mitigation would be required to reduce the visual effect of the scheme from these views. The Council's absence of evidence on this matter has been unhelpful. However, I do not find it to be unreasonable for the Council to have come to a different conclusion on this matter.
12. Furthermore, in my main decision I found that whether additional tree planting was provided or not in satisfaction of NP policy ENV11 it would be unlikely to have a material bearing on the screening of the site. Furthermore, whilst finding conflict with the requirements of this policy this breach alone was of limited weight in my assessment of the merits of the proposal.

The effect of cut and fill to the local and wider area

13. The LVIA found that the proposed engineering works to create a level site would be consistent with the landscape character of the site and its surrounding context. However, in my main decision I found that the effect of the proposal would result in a modest effect on the wider landscape, but some harm would occur at a local level leading to modest harm. This adverse harm found to the character of the landscape, whilst modest, contributed to the harmful effects of the proposal. These findings generally accord with the Council's concerns. The Council was entitled to arrive at a different conclusion to the LVIA on this matter and I do not find it to necessary for it to have provided detailed reasoning on this matter. As a result, it has not behaved unreasonably in this regard.

The Council's claimed conflict with LP policy EN3

14. The Council has found that proposal would conflict with LP policy ENV3, which seeks to protect green infrastructure. However, it has not justified the reasoning for this conclusion and as identified in my main decision I have not found conflict with this policy. Furthermore, the evidence demonstrates that ecological interests would not be adversely affected through the conclusion of the appellant's preliminary ecological appraisal and the Council's ecologist.
15. As such, based on an absence of justification and reasoning the Council behaved unreasonably in finding conflict with this policy and in failing to explain where such conflict existed.

Valued landscape

16. Within the Council's Reason for refusal it states, among other matters, that the proposal would conflict with paragraph 180(a) (now 187(a)) of the Framework.
17. The Framework, at paragraph 187(a), requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. However, the Framework does not provide a definition of 'valued landscape' and does not differentiate between designated or non-designated local landscapes in terms of value. Different landscapes are valued by different people for different reasons, and a landscape does not have to be designated to be afforded protection from inappropriate development.
18. Nonetheless, the Council's evidence does not explain, within the OR or its Statement of Case, why it considers the site to be within a valued landscaped and it is therefore unclear how it has arrived at such a view. Therefore, based on the evidence, the Council erroneously referred to this provision. However, this error is not of such magnitude to be regarded as unreasonable behaviour as it does not appear to have raised issues that are not already under discussion by main parties.

Summary of matters raised

19. Overall, although the Council has been found to have raised conflict with LP policy EN3 without coherent justification, this alone has had only a very limited bearing on the appeal process as a whole. As such, the unreasonable behaviour identified is limited and has not resulted in specific wasted expense for the appellant.
20. Accordingly, taking all the above points into account, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

B Plenty

INSPECTOR