



Costs Decision

Inquiry held on 3-4 June 2025

Site visit made on 2 June 2025

by **Andrew Smith BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th June 2025

Costs application in relation to Appeal Ref: APP/W2845/W/25/3359697

Land adjoining Bell Plantation, Watling Street, Towcester NN12 6GX

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Alban Mann LLP for a partial award of costs against West Northamptonshire Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for development of up to 31,800 sq m (GEA) of Employment Buildings (Use Classes E(g)(iii), B2 and/or B8), access, landscaping and associated development and drainage infrastructure (Outline, all matters reserved except for the principal means of access to the site from the A5).
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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 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 has alleged that the Council behaved unreasonably by imposing its first reason for refusal, which related to landscape and visual effects associated with the intended placement of the tallest buildings on the highest part of the site. Moreover, it is alleged that the proposal should never have been refused on landscape grounds for reasons that include: the site being allocated for employment development under allocation AL1 of the South Northamptonshire Part 2 Local Plan 2011-2029 (the P2LP), the proposal being in general accordance with the Employment Site Allocations Development Brief Supplementary Planning Document (October 2022) (the SPD), the opportunity that availed to condition elements such as maximum building heights, and the anticipated implications of structural landscaping.
4. I first note that the Council's Planning Committee Members were entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated. I also accept an assertion made that landscape impact and harm is an area where reasonable parties may disagree and reach different opinions.
5. However, it must be acknowledged that the site comprises part of an adopted allocation for employment development. The basic principle of development is thus established, and some landscape impact would be an inevitability of implementing

- major development in accordance with its allocation upon a site that exhibits inherent rural characteristics.
6. It is of pertinence also that the SPD, which provides general design principles to guide and support the future development of employment allocations and is of direct relevance to the scheme, contains a Development Framework specific to site AL1. This establishes that small and medium sized buildings (footprints of less than 8,000 sqm, as defined in the SPD) will be acceptable where there is no significant visual impact, likely rising to approximately 16 metres from existing ground levels, and being effectively screened from sensitive views by either existing or proposed tree planting.
 7. It is noteworthy that the Parameters Plan¹ illustrates that maximum building ridge heights shall not exceed 16 metres and the establishment of structural landscape zones to various sensitive stretches of the site's perimeter including where it aligns with the A5 and the A43. It is also the case that the applicant has accepted the notion of planning conditions that specify maximum building heights, maximum finished floor levels, and maximum floorspace for any individual unit. Accordingly, the proposal put forward for determination is fully consistent with relevant provisions of the SPD. It has not been satisfactorily substantiated otherwise.
 8. The Council, in the lead up to the Inquiry, reviewed its case and acted to withdraw its landscape-related reason for refusing planning permission (along with its other highways-related objections). This was solely as a consequence of an appeal decision² related to neighbouring land to the north and east. It is important to note that this neighbouring land comprises the remaining and noticeably larger portion of the AL1 employment allocation and incorporates areas of higher ground relative to the site that is the focus here.
 9. I accept the April 2025 appeal decision to be an important material consideration in the context of determining the planning appeal to which this application relates. Indeed, it allows large-scale development immediately adjacent to the site. Even so, the neighbouring site in question falls wholly within the AL1 allocation such that some form of major mixed employment-generating development upon it – albeit not necessarily in the same guise as ultimately granted permission – has been an inevitability ever since the P2LP was adopted in July 2020. This finding can be similarly applied to other allocated employment sites located proximate to the appeal site. Accordingly, the fairly anticipated ramifications of allocated development in a landscape/visual impact sense should have factored prominently in decision-making and I have no convincing or substantive evidence before me to suggest that they did. This is even though it is succinctly set out in the relevant Committee Minutes that Members considered allocated sites.
 10. I acknowledge that the Inspector with respect to the neighbouring scheme identified some landscape harm above any inevitable consequence of developing out the allocation. Also, no costs application was before him. However, he was tasked with considering an alternative proposal principally comprised of large-sized units upon a different and larger portion of the allocation. It is thus not possible to draw direct parallels between the proposal before me and the scheme determined by the other Inspector.

¹ Ref: 16170-SGP-XX-00-DR-A-P006 rev H

² Ref: APP/W2845/W/24/3354423 Land North of the Bell Plantation – DHL Real Estate Solutions, decision date 4 April 2025

11. In lieu of the above factors, including identified full compatibility with relevant provisions of the SPD, I find that it was unreasonable for the Council to impose a reason for refusal pertaining to alleged significant adverse landscape/visual impacts associated with the intended placement of the tallest buildings on the highest part of the site. Moreover, whilst I accept the relevant refusal reason to be specific and clear (following clarification early in the appeal process that reference within it to the B8 Use Class was mistaken), it contains assertions that are plainly inaccurate and unsupported by objective analysis.
12. I do not accept a suggestion made that the Council failed to act promptly to confirm its position following the issuing of the April 2025 appeal decision. Indeed, its scheme of delegation dictated that any revised recommendation had to be reported back to and agreed by Members of its Planning Committee. Even so, it was merely two weeks prior to the date of exchange of evidence on 6 May 2025 that the applicant attained awareness of the outcome of the relevant Committee Meeting and thus suitable clarification that the Council would not be defending its refusal reasons at the Inquiry.
13. It is apparent that – as would be reasonable to expect – the preparation of detailed evidence with respect of landscape/visual matters was already well underway at the point in time the applicant obtained confirmation of the Council’s revised stance. This is corroborated by the dating of plans and a raft of photographic images contained within the appendices to the landscape witness’s proof of evidence.
14. Whilst the appellant requested an extension to the exchange of evidence deadline at the second Case Management Conference (CMC) on 29 April 2025, I have not taken this to confirm any inference that proofs had not progressed at that point. Indeed, it was explained in no uncertain terms at that CMC that the requested additional time was to enable the review of proofs in the interests of seeking to provide more focussed and concise evidence.
15. I note that objections in a landscape impact sense were raised by interested parties at the application and appeal stages of the process, which have required due consideration. Even so, had planning permission not been refused by the Council on landscape grounds there is no fair reason to consider that a detailed proof of evidence would have been necessitated to address such matters.
16. In view of the above factors, I find that the Council’s unreasonable imposition of its first reason for refusing planning permission led to unnecessary expense being incurred in the appeal process. For the avoidance of doubt, this unnecessary expense relates to: the time spent by an expert witness preparing a landscape and visual proof of evidence; the time spent by the appellant’s representatives considering the first refusal reason in consultation up to the point in time of exchange of evidence; and the time spent preparing the applicant’s cost claim.
17. In addition to the above, the applicant has sought costs related to preparation for and attendance at the Inquiry. In this sense, it could be argued that the landscape witness’s attendance at the Inquiry was a natural consequence of him being tasked with compiling a proof of evidence. However, it is noteworthy that, as confirmed in my CMC Summary Note dated 29 April 2025, it was envisaged that proofs of evidence were to be largely taken as read with any discussion at the Inquiry to be led by any questions I or interested parties may raise. This is the basis by which landscape evidence was ultimately heard.

18. Moreover, whilst I stand by my finding that it was unreasonable to refuse planning permission on a landscape impact-related basis, I found the landscape witness's attendance useful for the purpose of obtaining clarification on matters and the information I desired to make a fully informed decision. On this basis, it would be neither fair nor proportionate to require the Council to cover any costs encountered by the applicant preparing for or attending the Inquiry or collaboratively considering landscape matters post exchange of evidence – a point in time by which the Council's opposition to the scheme had formally fallen away.
19. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of contesting the Council's first reason for refusing planning permission up to the point in time of exchange of evidence on 6 May 2025 and a partial award of costs is therefore warranted.

Costs Order

20. 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 West Northamptonshire Council shall pay to Alban Mann LLP, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of contesting the Council's first reason for refusing planning permission up to the point in time of exchange of evidence on 6 May 2025; such costs to be assessed in the Senior Courts Costs Office if not agreed.
21. The applicant is now invited to submit to West Northamptonshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Smith

INSPECTOR