Planning Inspectorate

Costs Decision

Inquiry held on 22-25 July, 5-8 August and 12-13 August 2025
Site visits made on 21 July, 25 July, 4 August and 8 August 2025

by R Catchpole BSc (hons) PhD CEcol MCIEEM IHBC

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2025

Costs Application in Relation to Appeal Ref: APP/M2840/W/25/3362393 at Land East of Halden's Parkway, Thrapston, Northamptonshire (Easting: 501623 Northing: 278262)

- 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 Benjamin Taylor (Equites Newlands (Thrapston East) Ltd and Mrs M Linell) for a full award of costs against North Northamptonshire Council.
- The Inquiry was in connection with an appeal associated with a failure to determine an application.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance 2019 (PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour can either be procedural, relating to the process of an appeal or substantive, relating to the merits of any issues arising from an appeal.

3. The application for costs was made by the applicant with reference to a failure to determine a hybrid planning application comprising storage and distribution (Use Class B8) space with ancillary offices; associated infrastructure including earthworks, parking, servicing; and landscaping including new public access links into the site (Outline); with full details of access, and the erection of a storage and distribution unit (Use Class B8) with ancillary offices, access, parking, servicing and landscaping, and, the demolition of all existing buildings and structures, and the re-alignment of an existing farm track (Full). The Council's own officers resolved that they would have supported the scheme had the applicant not appealed[1].

4. The applicant believes that the Council acted unreasonably because there was a lack of a substantive reason to delay or seek to prevent permission from being granted given the perceived failure to produce evidence to substantiate three putative reasons for refusal (RfR). These were RfR 1, 2 and 5 which relate to the locational requirements of the spatial strategy, which directs development to specific locations, and the need to conserve the character and qualities of local landscapes. It also believes that the Council acted unreasonably due to a failure to determine key issues in the applicant's case in the same way as a nearby

[1] CD 1.4.2

application, by IM Properties Developments Ltd (IM), for a similar development (Ref: NE/22/00698/OUT).

5. In particular, the applicant suggests that Policies 11, 23 and 24 of the North Northamptonshire Joint Core Strategy 2011-2031 (2016) (JCS), which underpin RfR 1 and 5, are out of date by reference to paragraphs 86, 87 and 232 of the National Planning Policy Framework 2024 (the Framework), as reflected in my appeal decision. The applicant observes that the Council did not challenge the evidence concerning the level of need and its location on the A14 during the course of the Inquiry. Although there was an objection from the planning policy officers in relation to the level of need, the Council nevertheless indicated that it would have approved the application.

6. Furthermore, the applicant highlights the fact that, on 9 July 2025, the Council considered a report from officers relating to the IM scheme which led them to recommend approval, which was duly granted, despite the same objection from the planning policy officers. The applicant maintains that the Council should not have contested the appeal due to the fact that the IM development is also a strategic logistics scheme, at a closely situated site, with only minor differences. It suggests that the principle of consistency extends beyond such differences and that the Courts[2] have found that the key test that should have been applied is whether there are similarities in some critical aspect, which in this instance relates to the application of Policies 11, 23 and 24.

7. Taken together these perceived failings risk an award of costs on substantive grounds because of the alleged failure of the Council to delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, as well as an alleged failure to produce evidence to substantiate each reason for refusal on appeal.

8. The Council maintains that costs should not be awarded on the basis of advice in the PPG which states that there are generally no grounds for an award of costs where a local planning authority refuses an application that is not in accordance with development plan policy and where no material considerations indicate that it should have been determined otherwise[3]. The Council points out that the applicant accepted that the proposal was not in accordance with the development plan and that it is a matter of planning judgement as to whether or not this was outweighed by material considerations, even when paragraph 11(d) of the Framework applies.

9. The Council relies on the fact that the Courts have found that a presumption in favour of sustainable development neither displaces the statutory presumption in favour of the development plan nor means that relevant development plan policies should be ignored[4]. In particular, that an earlier approach in Crane[5], indicates that the weighing of adverse impacts against benefits should not proceed on the basis that the development plan is ignored where relevant policies are out of date and that this does not prevent a decision-maker from giving as much weight as is judged to be right to a proposal's conflict with a strategy in a plan.

[2] North Wiltshire District Council v Secretary of State for the Environment [1993] 65 P&CR 137
[3] Paragraph: 050 Reference ID: 16-050-20140306
[4] Gladman v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 104
[5] As cited in paragraph 40 of the Gladman judgement

10. The Council maintains that it called an expert witness to address the RfR within the context of the three dimensions of sustainable development. It notes that the inter-related judgments involved disagreements on the weight to be given to the impact on the character and appearance of the area, the implications of mitigation to seek to offset that harm, the extent to which unsustainable commuter patterns would result and the approach to place making in the context of community led planning. It notes that these have a direct bearing on the spatial strategy.

11. Turning to the matter of consistency, the Council points out that there are important material differences relating to scale, balance of uses, use classes, outline elements, local employers and starter elements. It maintains that the IM development is a different scheme on a different site and that the two schemes are clearly distinguishable in planning terms. The Council also notes that following officer recommendations in relation to the IM scheme has led to a potential legal challenge which could ultimately indicate that a reasonable approach has been taken by Members in relation to the present scheme.

12. The Council also points out that the key test identified by the applicant is concerned with consistency in the appellate process. It highlights the fact that the chosen passage relates to the approach to be taken when there is a divergence of opinion between two Inspectors. The Council takes the view that the test of "critical aspect" arises in the context of warranting an explanation for departing from the views of a previous Inspector and does not apply to the decision-making process of the Council.

13. The Council notes the attempt to separate the issue of landscape and visual harm, under RfR 2, from the spatial strategy issues, under RfR 1 and 5, in order to justify a partial award of costs. It maintains that the evidence of the appellant's need witness are not severable due to the inter-related issues that were at play and observes that the witness ventured into wider matters of self-containment and commuting which were addressed in the Council evidence. As such, the Council maintains that the evidence was not entirely about need.

14. Whilst the Council failed to produce any technical evidence relating to the RfR, it nevertheless produced two proofs of evidence on landscape and planning matters. The latter addressed issues relating to sustainable patterns of commuting within the context of the spatial strategy which were at the heart of RfR 1 and 5. Neither of these question employment need or the economic benefits of the scheme, they simply state that these factors would not outweigh the harm that would be caused and that this would be contrary to the spatial strategy.

15. Whether or not Policies 11, 23 and 24 of the JCS were out of date or inconsistent with the Framework was a point to be proven by the applicant which necessitated the submission of needs-based evidence. The fact that the Council chose not to challenge it during the course of the Inquiry does not mean that its reasons were unsubstantiated, merely that it accepted the evidence that was submitted. Consequently, I find that the Council has acted reasonably and substantiated its RfRs through the submission of further evidence and that a partial award is not justified.

16. Turning to the matter of consistency, the Council's view in relation to the North Wilts case is a narrow point. As the applicant points out in its rebuttal, consistency of decision making is a fundamental public law principle which the courts have

recognised on many occasions as applying to planning committee decisions, just as much as appeal decisions[6]. Whilst Members are not bound to accept the recommendations of its officers this expectation nevertheless applies.

17. The key question in relation to this ground is whether there are material differences that justify a different decision being reached. At close, the Council highlighted the fact that different uses within the B class applied, less of the scheme was in outline and that the full application was supported by EN17 of the East Northamptonshire Part 2 Local Plan (2023) (LP). It observed that there was a different planning balance to be struck where the benefits outweighed the harms, which included a lack of compliance with Policies 11 and 24 of the JCS[7].

18. The applicant at close, noted that both comprise large logistics schemes next to Thrapston with a hybrid phase 1 for a logistics operator. The applicant points out that Policy EN17 of the LP does not feature in the planning balance in the officer report or the committee minutes. It observes that the reasoning of the officers is the same and that both schemes were contrary to Policies 11 and 24 of the JCS. The applicant notes that the critical policy aspect was the same but that Members determined them differently[8].

19. Whilst I accept the similarities in the case officer reports, the Council draws my attention to a greater range of differences, as highlighted at close. As I do not have the full details of the IM application before me, I cannot be certain that it is the same in all respects in terms of the detail of the proposal. It undeniably sits within the same policy context and the conflict with the most relevant policies was given reduced weight in both instances. The matters that informed the planning balance also had a high degree of commonality. Added to this is the fact that I also reached a similar conclusion in allowing the appeal.

20. However, the different conclusions reached by the Council in relation to these schemes are a matter of planning judgement with a different planning balance struck by Members who are not bound by the conclusions of the Council Officers. As a consequence, I find that the Council did not act unreasonably and delayed development which should clearly have been permitted.

Conclusion

21. I conclude that whilst there were significant similarities, the Council nevertheless acted reasonably. As such, the appeal could not have been avoided and no unnecessary or wasted expense was consequently incurred. For this reason and having regard to all other matters raised, an award of costs is therefore not justified.

R Catchpole

INSPECTOR

[6] For example, R(Kinnersley) v Maidstone BC [2023] EWCA Civ 172 at [30]
[7] Paragraph 3, ID58
[8] Paragraphs 67-70, ID62