



Costs Decision

Site visit made on 14 October 2025

by F P Tinsley MA (Hons) MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3371073

Land at Field Lane, Thorpe Willoughby, Selby, North Yorkshire, YO8 9FL

- 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 Sherwood Brothers Ltd against the decision of North Yorkshire Council.
 - The appeal was against the refusal of planning permission for 'Outline Planning Application including access, with all other matters reserved, for up to 110 residential dwellings.
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Decision

1. The application for an 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 (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. The applicant contends that the Council has acted unreasonably in a substantive manner, causing the appellant to incur unnecessary and wasted expense during the appeal process as a result of the Council's refusal of planning permission.
4. The sole reason for refusal concerned perceived harm to the settlement structure of Thorpe Willoughby and an unacceptable negative landscape impact on the area and the setting of Brayton Barff.
5. A previous appeal decision for a very similar proposal¹ (previous appeal) established that the appeal site makes no meaningful contribution to the setting of Brayton Barff. It was determined by the Inspector that developing the site for housing would not result in material harm to the setting of Brayton Barff nor cause significant harm to the character and setting of the village. Furthermore, evidence indicates that the Council previously understood this position in its subsequent decision on application Ref: 2022/1483/OUTM, where planning permission was refused for an almost identical proposal to that before me. Notably, the reasons for refusal in that case did not include alleged harm to the settlement structure of Thorpe Willoughby or landscape impact on the area and setting of Brayton Barff. Significantly, this matter is not addressed in the Council's Statement of Case (September 2025), despite it forming a key tenet of the appellant's case at appeal,

¹ APP/N2739/W/17/3181460

nor in the Council's rebuttal of the costs application, where it constitutes a central element justifying the award.

6. I therefore find that the Council has acted unreasonably by persisting in objections to a scheme, or elements of a scheme, which the Secretary of State or an Inspector has previously indicated to be acceptable in relation to the previous appeal on the site. This is that the proposal will cause harm to the settlement structure of Thorpe Willoughby and cause an unacceptable negative landscape impact on the area and the setting of Brayton Barff.
7. I also find that the Council has failed to determine similar cases consistently, particularly regarding the outline planning application for an almost identical proposal decided on 15 May 2023 (Ref: 2022/1483/OUTM). None of the reasons for refusal of that application referred to impact on settlement structure or landscape impact on the area or setting of Brayton Barff. It was therefore reasonable to conclude, in the context of the current almost identical proposal, that the Council considered the development acceptable in this regard. I have not been provided with evidence of any material change in circumstances since the decision of 15 May 2023 that would alter this position.
8. There is no evidence in the Council's Appeal Statement that it considered the requirements of paragraph 11(d) of the Framework, which is triggered in this scenario where the Council is unable to demonstrate a five-year supply of housing, as is the case here. This omission is significant given that the matter was addressed in the planning officer's report to committee, which recommended approval of the proposed development and identified this issue as a significant material consideration. In this regard, the Council have not provided evidence that they have had regard to national policy which is a key material consideration, nor have they indicated how their decision is consistent with this at appeal stage.
9. I have not found unreasonable behaviour in relation to consistency with the Council's determination of application Ref: ZG2023/0358/OUTM for up to 145 dwellings on 'Land South of Leeds Road'. This proposal concerned a different site, and it is not unreasonable for the Council to reach different conclusions regarding the impact of proposals on different locations within the same landscape sensitivity designation. I have also not found that the Council made vague, generalised, or inaccurate assertions about a proposal's impact unsupported by objective analysis. Although its conclusions were inconsistent with my findings, the previous Inspector's conclusions, and its determination of Ref: 2022/1483/OUTM, the Council clearly set out its justification in the appeal statement. The concerns were appropriately linked to relevant development plan policies. I find that the Council had reasonable concerns about the impact of the proposed development, which were justified and articulated to support the refusal. Therefore, no unreasonable behaviour has been demonstrated on this point. This is notwithstanding that they reached a different conclusion on the matter to my own, the previous inspector and their previous conclusions with regard to Ref: 2022/1483/OUTM.

Conclusion

10. In light of the issues outlined above regarding the effect on the character and appearance of Thorpe Willoughby and the setting of Brayton Barff, having regard to its inclusion within a Locally Important Landscape Area (LILA), I find that the

Council has acted unreasonably, resulting in unnecessary and wasted expense. As set out in the Planning Practice Guidance, a full award of costs is therefore justified.

Costs Order

11. 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 North Yorkshire Council shall pay to applicant the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the first Council's reason for refusal, which concerned alleged conflict with Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy, and the provisions of the Framework.
12. The applicant is now invited to submit to the 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

F P Tinsley

INSPECTOR