



Costs Decision

Hearing held on 18 and 19 November 2025

Site visit made on 19 November 2025

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Costs application in relation to Appeal Ref: APP/K0425/W/24/3345099 Woodland, Fieldhead Gardens, Bourne End, Buckinghamshire SL8 5RN

- 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 Marcus Solomon Management Ltd for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for 3 no. detached dormer bungalows and ancillary works.
 - This decision supersedes that issued on 12 February 2025. That decision on the application was quashed by order of the High Court.
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Decision

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

The submissions for Marcus Solomon Management Ltd

2. An application for costs was first made in writing and a written response was given. After the 12 February 2025 Decision was quashed, the application was updated, in writing before the Hearing. The following additional points were made orally:
3. Comments about the timings of works and visits is resented. The Council have had ample opportunity to comment on re-planting and view the site. It has only very recently been possible to agree how to replace the trees felled without consent. The work could have been carried out earlier if the Council had engaged.
4. It is quite clear that the Council are failing to meet their housing supply requirements. There is a national, entrenched housing crisis and the Council are failing to engage with the policy requirements to deliver. The Council are taking a common Local Planning Authority approach of emphasising harms and treating them as being of great importance, while failing to give appropriate weight to the benefits. This has resulted in the current housing supply position.
5. The Council continues to suggest that small numbers of houses should not be given full weight. That is completely inconsistent with the decision to quash the previous appeal decision in this case, as even small sites have a particular value. It is an error of law to fail to give small developments full weight.

The response by Buckinghamshire Council

6. The response was made in writing. No further oral submissions were provided, except that it was clarified that the Council had now visited the site and discussed the tree re-planting with the appellant, in advance of the Hearing.

Reasons

7. 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.
8. Since 2019, previous Inspectors have found that development of the site would cause harm to the character and appearance of the area and designated Green Space, whether as a consequence of tree removal or perceived likely future pressure on those trees retained. In their appeal case, the appellant suggests that the third Inspector, in 2022, failed to acknowledge that they were considering the same scheme subject of the quashed 2019 Appeal Decision. Thus, it is suggested, that Inspector was misguided and should have reached the same conclusion as in the first decision with regard to the effect of tree removal. The Council is then alleged to have continued this approach.
9. However, there is reference to both the redetermined 2019 Decision and the quashed one in the third Inspector's reasoning. Whether or not the appellant deems the reasons to be sufficient, it was explained why a different conclusion was being drawn. From the totality of the evidence before me, I too have found that there would be harm to the character and appearance of the area, notwithstanding its similarity to the scheme in the first Decision. Accordingly, the Council cannot be said to have acted unreasonably in its approach to decision making and judgement as to which appeal decisions to give the greatest weight to. It gave reasons for ascribing the weight it did, as required by caselaw.
10. Great criticism is made by the appellant of the rigour with which the Council assessed the proposal and inconsistencies within the arguments presented. Some of these, such as submissions on the extent of tree loss and effects of shading, were tested at the Hearing, which is a normal part of the appeal process. The Council's position on the case has been clear and consistent throughout proceedings, including that there would be harm from the development, irrespective of whether further trees would be lost. The Council has also explained why the fact that trees had already been removed made no difference to their case.
11. Moreover, as noted above, I have broadly agreed with the Council's position that harm would result to the character and appearance of the area, and that there would be conflict with the policy concerning designated Green Space. Those are not matters that could obviously be overcome through the imposition of planning conditions. Even if the alleged errors in the Council's approach were absent, I am confident it would have come to the same overall position. That the appellant adduced considerably more evidence than the Council does not change that.
12. The weight to ascribe to various harms and benefits is a matter of planning judgement. There may be considerable policy support for housing delivery, in line with the Government's ambitions, but the weight to be ascribed to that in any given case is, ultimately, for the decision maker. While the appellant may disagree with the Council's judgement, the Council has produced a number of appeal decisions where the benefits of smaller schemes have been given less weight than the harms that would be caused. As I have noted in my Appeal Decision, it is logical that a scheme for many houses would result in a greater benefit in terms of contribution to housing supply than a scheme with few. While within the submissions of the

relevant ground filed in the High Court, the previous decision on this appeal was not quashed for reasons associated with the weight to be applied to material considerations.

13. In weighing a planning balance, it is sometimes helpful to ascribe descriptions to the weight being given to the various considerations. The issues in different cases will vary, such that it is difficult to read across from one decision to another and decide whether the weight described was comparable in real terms. What is clear in the current case is that the Council deems the harm to the character and appearance of the area and designated Green Space to be more important than the benefits in terms of housing supply. Following my interrogation of the evidence, I do not share that view, but such judgement is not unreasonable in itself. Although the Council was urged to increase the weight attributable to the benefits by the appellant's legal advisors, there is no substantive evidence that the Council has unreasonably ignored Government policy, or any imperative that may exist to significantly boost housing supply.
14. The position of the Council on the planning balance has been consistent. Until relatively recently, that has been based upon an unwavering belief that it can demonstrate a 5-year supply of deliverable housing land. It is regrettable that, in writing its 2024 appeal statement, it did not take the opportunity to re-assess the balance, given the change in housing supply position that was anticipated upon the 5th anniversary of the Wycombe District Local Plan 2019.
15. Nevertheless, before the Hearing, the Council did assess that change in circumstance, and the subsequent implications of Paragraph 11 of the National Planning Policy Framework ("the Framework"). On doing so, it then concluded that there were policies of the Framework that protect areas or assets of particular importance that provided a strong reason for refusing the development proposed. Following the Council's approach, the Framework, read as a whole, would not have indicated that permission should be granted, whether or not the most important policies of the development plan were deemed to be out of date.
16. Given the extent to which it was necessary to explore the application of policies that protect areas or assets of particular importance at the Hearing, it was not a wholly unreasonable argument. Accordingly, even if the Council had engaged with the implications of the housing supply situation earlier, it is clear that it would not have conceded that the appeal should be allowed. I appreciate that this matter had never before been assessed and, indeed, Inspectors had previously indicated that there were no such policies providing a strong reason for refusal in the Framework.
17. However, each appeal must be determined upon the evidence before that Inspector and it appears that such an argument had never before been put. I note that the point could have been made before this appeal was first determined on 25 February 2025. However, as it stems from the Council's belief that there was a material change in circumstances in the housing supply position during this overall appeal process, no wasted expense is demonstrated here, even if it could have been raised earlier.
18. Ultimately, the differences between the parties in this case come down to judgement as to the extent of any harms and benefits and the weight to be applied to those within the planning balance. For reasons that I have given, the Council's approach in weighing the planning balance is not wholly without merit given the

planning history of this site and inferences they have drawn from other appeal decisions. There is no substantive evidence that the Council has misapplied the law.

19. There is ongoing dispute between the parties about the time taken to carry out the tree replanting and who should shoulder the blame for the delays. It may be that the Council took some time to agree to visit the site, but the full history leading up to this is not clear. Importantly, visits did take place and the replanting was assessed in advance of the Hearing. Although the Council was able to accept that the replanting had now been done, that made no fundamental difference to the case it presented at the Hearing. Whether the events leading up to this, or any other behaviour that led to that point, is a failure to work in a positive or proactive manner, it has not, therefore, created wasted expense in the appeal process.
20. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted. The application is refused.

M Bale

INSPECTOR