

FURTHER COSTS APPLICATION ON BEHALF OF THE APPELLANT

1. The NPPG explains that costs may be awarded where¹:
 - a party has behaved unreasonably; and
 - the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
2. Indeed, The NPPG continues that the aim of the costs regime is to²:
 - “encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case”
 - “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, not to add to development costs through avoidable delay**” (Emphasis added)
3. The NPPG also identifies that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include³:
 - “preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations”
 - “failure to produce evidence to substantiate each reason for refusal on appeal”
 - “vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.”

¹ Reference ID: 16-030-20140306

² Reference ID: 16-028-20140306

³ Reference ID: 16-049-20140306

4. The Appellant make this further application for a partial award of costs in relation to the costs of preparing a case to respond to the Council's allegation in its Statement of Case that:

Paragraph 5.7: *"there is sufficient PBSA accommodation proposed to support the majority of student accommodation requirements from the largest HEP's within Wandsworth."*

Paragraph 5.8: *"the annual level of need in Wandsworth would equate to around 70 additional bedspaces of Purpose-Built Student Accommodation per annum."*

Paragraph 5.12: *"if the appeal scheme came forward, it would increase the supply of PBSA bedspaces by 762, resulting in a significant oversupply of student housing within the Borough."*

Paragraph 5.17: The absence of demonstrated need for the proposed student accommodation represents a conflict with Policy H15 of the London Plan and Policy LP28 of the Local Plan.

5. In recommending that planning permission should be granted for the Proposed Development, Officers explained to Members that "It is considered that there is a strategic need for student housing within London that the proposals would help to address." (CDF.01 para 1.22)
6. Members, however, rejected that advice and, as set out in paragraph 4 above, have adopted the position there is no need for student accommodation on this site and that to grant planning permission for the Proposed Development would result in a "significant oversupply" of student housing in Wandsworth Borough.
7. In the event, the Council decided not to present any evidence relating to the need for PBSA nor the demand/supply position in Wandsworth. It did not however indicate that it wished to withdraw the case set out in its Statement of Case. Indeed, in its Opening the Council maintains the points set out in the Statement of Case notwithstanding that it has adduced no evidence to support them to this Inquiry.
8. The basis upon which the Council alleges that there is no need for PBSA in Wandsworth and that the Proposed Development would result in oversupply derives from a calculation of Wandsworth only need (see Council's SoC (Paragraph 5.10) (CDG.02)). The Council argues that its PBSA need over the plan period of 2023-2038 has been almost met with 95% of the units having already been either completed, commenced or permitted. This is based upon paragraph 31 of the Wandsworth Local Housing Needs Assessment (2024) (CDC.03) suggests that Wandsworth borough contains 1% of PBSA in London and around 2% of all students, so it contends that its share of the 3,500 bed spaces annual target based upon its current population

would be 35-70 units per annum. Indeed, this is a submission which is entirely consistent with the Appellant's outstanding objections to the draft Local Plan Partial Review (CDM.06).

9. Firstly, the Council's approach is based upon applying a percentage of PBSA that represents the number of students in Wandsworth in a constrained "policy-on". There is no basis on which it can be appropriate to consider current supply as a benchmark to measure future need, particularly where supply is evidently constrained since only about 50% of need is currently being met across London as a whole. Accordingly, the Council's approach must be rejected since it does not and cannot represent an unconstrained, objectively assessed need for PBSA.
10. If the approach adopted by Wandsworth were adopted across London as a whole, some central London Boroughs simply could not expect to meet their student needs given the scale of education institutions located within them. By way of example, Mr Feeney looked at the position in Westminster which is home to a range of universities and other specialist providers. He noted that even assuming every bed available to students in Westminster was taken by a student at an institution in the Borough, up to 43,386 students would not be able to access PBSA, including up to 21,781 first year students.
11. The Council's disaggregated approach to PBSA need finds no support whatsoever in adopted planning policy within the London Plan. The approach in the London Plan specifically states (CDB.02 p222 para 4.15.3) that the strategic need for PBSA is not to be broken down into borough-level targets. Further, and where Policy H15 of the London Plan is clear that the annual target of 3,500 bed spaces is deliberately set to be London-wide to allow changing circumstances over time. Further, the GLA has objected to the draft Local Plan Partial Review including to draft Policy LP28 on the basis that it is not in general conformity with the London Plan (CDM.07).
12. Indeed, as Mr Stackhouse explained, as a matter of logic, if every Council across London adopted the same approach to assessing need as Wandsworth advocates this would mean that, in combination, the London Councils would identify a "need" of around 50% of the "need" figure identified in the London Plan. Accordingly, the Council's approach if adopted across London would thus ensure that student needs would not be met. Thus, the approach conflicts with the policy objective set in Policy H15 of meeting the overall 3,500 per annum figure across London as a whole. Further, the Council's approach is in conflict with the approach that specialist housing needs must be identified and met as required by the NPPF Paragraph 61.
13. Furthermore, even if it was accepted that the Borough was providing for the needs of the HEPs in its Borough, it would be failing in its duty to cooperate with all other London boroughs to meet the unmet PBSA housing need across London. In this regard, Paragraph 24 of the NPPF (CDB.01) states that: "Effective strategic planning across local planning authority boundaries

will play a vital and increasing role in how sustainable growth is delivered, by addressing key spatial issues including meeting housing needs, delivering strategic infrastructure and building economic and climate resilience. Local planning authorities and county councils (in two-tier areas) continue to be under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.” Further, NPPF paragraph 62 advises: “In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.” The Wandsworth approach does not allow for any needs for PBSA from neighbouring areas to be taken into account.

14. The entire basis of the 35-70 units a year calculation is flawed in any event. Mr Feeney provided unchallenged evidence that in the 2024/25 academic year, as a matter of fact 4% of all beds in London are located in Wandsworth (Paragraph 70). Using the Council’s entirely misconceived methodology, this means that Wandsworth annual target should be 140 units per annum, rather than 35-70. Over 15 years that is an additional 1050 PBSA bedspaces that would be required. Thus, even if the flawed approach is adopted, the Proposed Development cannot result in an oversupply of PBSA in Wandsworth.
15. However, even more compelling is the unchallenged evidence from Mr Feeney that:
 1. In respect of London overall, (Feeney Figure 12) for the 2022/23 academic year (the most recent year of data), there was a Demand Pool of 277,295 students yet only a supply of 92,382 beds – leaving 184,463 students with a requirement for a bed unable to access one in PBSA. This translates to a student to bed ratio of 2.99: 1.
 2. In respect of institutions within a commutable distance of the Appeal Site, Mr Feeney explained (Paragraph 22) that students in London are generally willing to travel around 45 minutes to and from a place of study from a place of residence. My Feeney identified 15 HEPs within 45 minutes of public transport of the Site. In this scenario, there was a 2022/23 Demand Pool of 148,170 students yet only a supply of 29,343 beds – leaving 118,827 students with a requirement for a bed unable to access one in PBSA. This translates to a student to bed ratio of 5.05: 1.
 3. In respect of institutions within Wandsworth, (Paragraph 78) since 2013/14, Wandsworth’s institutions have been unable to house all students with a requirement for a bed in PBSA, with this shortfall growing markedly since 2019/20 to stand at 7,074 students on 2022/23. Importantly, 2,309 first year students with a requirement for a bed are unable to be housed. Based on previous growth trajectories, these figures have the potential to stand at 8,896 and 3,422 in 2024/25 respectively.

4. In respect of institutions within Wandsworth and its neighbouring boroughs, he identified a short fall of 17,666 in 2024/25. This translates to a student to be ration of 3.31:1.
16. The unchallenged evidence then is that whether one looks at London as a whole, Wandsworth with Lambeth and Southwark, or Wandsworth in isolation, higher education institutions within these areas are unable to house all students with a requirement for a bed in PBSA and this shortfall continues to grow markedly.
17. There is no reasonable evidential basis whatsoever for concluding that there is no PBSA need for the Proposed Development, nor that if granted it would result in an oversupply of PBSA; rather, the evidence has established that there is a very significant undersupply of student accommodation at every geographical level and that even with the proposed Development operating that undersupply will remain very significant indeed. Officers had accepted this evidence in assessing the proposals for the purpose of presenting to the Planning Committee in January this year.
18. The Council's insistence to the contrary was and is wholly unreasonable. It has failed to substantiate its case that there is no need for PBSA in Wandsworth. It has failed to substantiate its case that the Proposed Development would result in an oversupply of student accommodation. Indeed, the vague, generalised and inaccurate assertions regarding the need for PBSA and oversupply of PBSA in the Statement of Case are unsupported by any reasonable objective analysis.
19. Members should never have pursued the points identified in paragraph 4 above and it was unreasonable to do so. The Council should have withdrawn these points when it chose not to provide any evidence in support to them, and it was unreasonable not to do so. The Council should have withdrawn the points when it received the evidence of Mr Feeney which it has not challenged, and it was unreasonable not to do so.
20. The Appellant has incurred the costs of preparing a case to meet these points and in presenting evidence to the Inquiry on them. Those costs are wasted costs that it should never have had to incur. Accordingly, the Appellant seeks its wasted costs in having to address the matters identified in paragraph 4 above in the appeal, including in relation to the preparation of evidence, consultations with Leading Counsel and inquiry time addressing them.

REUBEN TAYLOR K.C.

180 Fleet Street
London
EC4A 2HG