

**Report for Beckington Parish Council  
Local Plan Part 2 Payment towards Judicial Review Norton St. Philip Parish Council v  
Mendip District Council**

**Background**

Local Plan Part 2 (LPP2) could only be signed off at the end of 2019 if an additional 505 homes were allocated in the North East of Mendip District.

This meant that without consulting Beckington Parish Council (BPC), Norton St. Philip Parish Council (NSPPC) or the respective ward members the Strategic Planning Officer Andree Sestini allocated the Redrow Phase 2 site in Beckington and a site in Norton St. Philip.

BPC, NSPPC and Rode Parish Council decided to challenge the requirement for 505 homes in the Northeast of Mendip District. The three parish councils decided collectively to appoint DLA Piper. The subsequent hearing in December 2020 when the matter was chaired by Inspector Fox on Zoom did not result in the Redrow allocation being removed from LPP2. This allocation and the allocation for Norton St. Philip were not publicly supported but were ratified by the Inspector in 2021 and subsequently by MDC in December 2021 despite the allocation being contested.

Following this ratification NSPPC announced that they intended to pursue a Judicial Review of the matter. A public meeting was held and there was overwhelming support for this course of action. The cost would be in the order of £50,000.

BPC have been morally supportive of this course of action as they were asked to be by NSPPC.

A request for BPC to provide financial support for NSPPC was made in the open session prior to the start of our formal meeting in October when details of the grounds for the Judicial Review were listed.

They were:- Misinterpretation of LPP1

Failure to consider reasonable alternatives

Failure to have regard to proportionate development in rural villages as set out in LPP1

The decision to allocate BK1 (Redrow 2) and NSP was irrational.

The Judicial Review was taking place on 18 and 19<sup>th</sup> October. Strong representations were made by our District Councillor and two residents supported this. It was accepted that if successful then Beckington would clearly benefit.

It was clear that the unanimous desire of the meeting was to make a contribution. However, it was also felt that before doing so we would be wise to get professional advice to make sure that BPC acts with the correct governance procedures. This involved getting financial information about the legal fees from NSPPC and being able to share that information publicly as part of BPC's transparent due diligence and financial prudence procedures.

We now have detailed information about the fees shown below which has been provided NSPPC.

**Norton St Philip Parish Council -v- Mendip District Council**

**Fee Estimate and Indicative Timetable**

**1. Introduction**

- 1.1. This estimate seeks to identify the stages involved in the statutory review process should you bring a legal challenge against a decision by Mendip District Council ("MDC") to adopt the draft Mendip Local Plan Part 2 (with modifications) and to provide an initial estimate of our anticipated fees for advising on the matter. We shall update the estimate as the case progresses and more is known about the matters that remain in issue.

**2. Exclusions**

- 2.1. Please note our estimate in Section 4 does not include the following:

- 2.1.1. VAT;
- 2.1.2. disbursements;
- 2.1.3. counsel fees and disbursements;
- 2.1.4. expert fees; or
- 2.1.5. court fees.

**3. Assumptions**

- 3.1. We have prepared this estimate based on the following assumptions:

- 3.1.1. no preliminary issue hearing will be required;
- 3.1.2. there will be no interlocutory applications i.e. temporary court orders during the proceedings;
- 3.1.3. there will be one active defendant – MDC – and two interested parties (the owners of the proposed housing allocations in Norton St Philip and Beckington);
- 3.1.4. that the final hearing will take place sometime between July 2022 and September 2022, and will last for 2 days;
- 3.1.5. the relief we seek from the court will be limited to quashing only the proposed housing allocations in Norton St Philip and Beckington;
- 3.1.6. 'Aarhus' cost capping will be available (please refer to our engagement letter for further details);
- 3.1.7. there is no alternate dispute resolution process; and
- 3.1.8. there are no appeals at either permission stage or following the final decision.

**4. Estimate**

Matters to be done prior to issuing the claim	Estimate and indicative timetable
<p>Review of papers, including examining inspector's report, advising on next steps, attending initial team telephone conference, setting up data room (as required)</p> <p>Detailed review of documents provided by client and MDC, preparing and issuing instructions to counsel</p> <p>Preparation for and attendance at without prejudice meeting with MDC</p> <p>Drafting and issuing letter before action</p> <p>Advising on grounds of challenge and claim form, settling the same with counsel, client and team, filing with the court</p> <p>All correspondence, telephone calls, preparation, research, meetings and discussions throughout this stage with you, counsel, MDC and the court</p>	<p>£10,000</p> <p>October 2021 – December 2021</p>
Continued course of proceedings to permission	
<p>Advice and assistance with the preparation of witness statements and exhibits</p> <p>Preparation of court bundle</p> <p>Attendances on client and with counsel</p> <p>Attendance at oral renewal hearing (if required)</p> <p>All correspondence, telephone calls, preparation, research, meetings and discussions throughout this stage with you, counsel, MDC and the court</p>	<p>£5,000 (plus £2,500 if oral renewal hearing for permission required)</p> <p>December 2021 – February 2022</p>
Final grant of permission to trial	
<p>Consideration of other parties' pleadings and evidence</p>	<p>£7,500</p>

<p>Instructions to counsel and attendances on client and with counsel</p> <p>Agreeing trial and authorities bundles with other parties' solicitors, production of bundles</p> <p>Assisting counsel with preparation of skeleton argument, review of other parties' skeleton arguments</p> <p>All correspondence, telephone calls, preparation, research, meetings and discussions throughout this stage with you, counsel, MDC and the court</p>	<p>February 2022 – June 2022</p>
<p>Trial and subsequent services</p>	
<p>Pre-hearing conference with counsel</p> <p>Attendance and support at hearing</p> <p>Review of final court decision and advising you on implications, conference with counsel</p> <p>Advice on appeal if relevant</p> <p>Assisting counsel with submissions on costs, including review of the other parties' submissions</p> <p>Advice on costs decision and next steps</p> <p>All correspondence, telephone calls, preparation, research, meetings and discussions throughout this stage with you, counsel, MDC and the court</p>	<p>£10,000</p> <p>July 2022 – September 2022</p>
<p>Total</p>	<p>£10,000 (VAT inclusive)</p>

This was the summary of the costs provided by NSPPC:

From: NortonStPhilip Clerk

Sent: 17 October 2022 15:36

To: 'rudgeinglenook@gmail.com' <rudgeinglenook@gmail.com>

Subject: Norton St Philip PC - Judicial Review costs

Dear Liz

As discussed, please find attached copies of invoices the Parish Council has paid to date in relation to the Judicial Review (JR) into MDC's LPP2. I also attach the fee estimate from the PC's legal team DLA Piper.

To summarise:

The projected total costs of the JR are made up of 3 components:-

1) DLA Piper 'Fee Estimate and Indicative Timetable' (attached)

**Maximum                    £35,000**

2) Counsel Fees for Alexander Greaves at a rate of £175 per hour provided separately by DLA Piper as follows:-

Item	Cost
Draft Grounds	1750
Permission	1750
Trial	4250
<b>Sub Total</b>	<b>£7,750</b>

3) Potential Costs (capped)

**Maximum                    £10,000**

**TOTAL                            £52,750**

In addition, information relating to the JR can be found on the PC's website via the below link:

[https://counciltransparencyportal.uk/cgi-bin/folderindex.pl?council=Norton\\_St\\_Philip&folder=Local%20Plan%20Part%20II%20-%20Judicial%20Review](https://counciltransparencyportal.uk/cgi-bin/folderindex.pl?council=Norton_St_Philip&folder=Local%20Plan%20Part%20II%20-%20Judicial%20Review)

As discussed on the telephone if there is any other information you need or think would be useful please do not hesitate to ask and I will get it over to you without delay.

Kind regards,

Nikki

### **Risk assessment.**

Norton St. Philip Parish Council could lose and the worry is that our contribution could be seen as a waste of money.

As this request from the Chair of NSPCC came to Beckington Parish Council during the open session prior to our meeting of 11..10.22 residents may feel that they have been given insufficient time to consider the situation.

Residents could well feel that this could be seen as an unjustified risk.

## **Recommendation**

To resolve to commit to pay a third of the cost of the final bill for legal costs for the case brought by Norton St. Philip against Mendip District Council in The High Court and that BPC put aside a payment provision of up to a maximum of £20,000 contribution toward the Judicial Review legal costs of Norton St Philip.

To facilitate the payment an invoice should be provided by Norton St. Philip Parish Council to Beckington Parish Council and evidence should be provided that the figure does not exceed one third of the legal costs of the case.

Please note that the following scenarios may impact on the amount BPC may pay:

1. NSPPC win. No costs as the Court makes MDC pay all NSPPC costs;
2. NSPPC win. Have to cover own costs;
3. NSPPC lose. Have to cover own costs and Court decides do not have to pay any of MDC costs;
4. NSPPC lose. Have to cover own costs and MDC costs; capped at £10,000.