



WOKINGHAM BOROUGH COUNCIL

Local Planning Authority – Costs Rebuttal

Appellant:	Abbeymill Homes
Site:	Land West of Edney's Hill Barkham Road Barkham RG41 4TG
Local Planning Authority Reference:	251486
Appeal reference number:	6005646

April 2026

1 When can an application of costs be made

1.1 As outlined in the Planning Inspectorate's guidance, costs can be awarded to interested parties if both the following tests apply:

- the person applying was put to unnecessary or wasted expense in the appeal
- because of the unreasonable behaviour of the other party

1.2 The Planning Practice Guidance (PPG) states that 'unreasonable behaviour' in the context of an application for an award of costs may be either:

- procedural – relating to the process; *or*
- substantive – relating to the issues arising from the merits of the appeal

(PPG, Paragraph: 031 Reference ID: 16-031-20140306)

2 The Appellant's case

2.1 The Appellant is seeking a full award of costs in connection with this application. The award of costs is 'substantive' rather than 'procedural'.

2.2 The application for costs is made under 6 grounds:

- That the inclusion of reason for refusal 3 (locational sustainability) is unreasonable and inconsistent with decisions and appeals on the site
- The inclusion of reason for refusal 4 (highway technical details) is unjustified as the application was accompanied by sufficient information
- Reason for refusal 5 (overlooking of plots 6 and 7) could have been overcome via condition
- Reason for refusal 6 (noise implications) is inconsistent with previous applications on the site and surrounding area
- Unreasonable to include reason for refusal 7 (trees) as the application was accompanied by clear and sufficient arboricultural information
- Unreasonable to include reason for refusal 9, claiming the Council had not made any due diligence to check that tree T20 is off-site.

3. The Council's case

3.1 The following constitutes the Local Planning Authority's (LPA) response to the Appellant's application for a full award of costs relating to the above site.

Procedural

3.2 As noted, the Appellant does not make their costs appeal on procedural matters. For completeness though, procedurally the LPA can confirm that the planning application was received validated on 22nd July 2025. The

application was determined within the statutory timeframe and therefore procedurally the refused planning application was dealt with suitably by the Local Planning Authority.

Substantive

- 3.3 The Appellant's grounds relate to substantive matters.
- 3.4 The following (in bold) are the Appellant's broad grounds of the cost appeal. Underneath is the Council's rebuttal to that matter. Whilst 6 individual points/ grounds have been made by the Appellant, several of these fall under a similar theme, and so are discussed together where appropriate.
- **Inconsistency in assessment with previous applications on/ nearby the site, with particular reference on locational sustainability, public open space and noise impacts**
- 3.5 Each planning application is required to be assessed on its own merits, although the Council acknowledge that a site's planning history can be a material consideration. This appeal scheme is for a materially larger number of units than what has been proposed on this site previously and is a greater number than those applications referred to by the Appellant, opposite the site by the Appellant.
- 3.6 Under this application, the locational sustainability of the application site has been professionally assessed by the Local Highways Authority in respect of the scale of scheme proposed, and in accordance with relevant policy and guidance, some of which was not in force at the time of those previous decisions. A list of the applications referred to by the Appellant are below:

Applications referred to by Appellant			
Appeal / App Ref	Site Name	Refusal Decision Date	Date of Appeal Decision
161412	Coppid Hill House, RG41 4TG	23 rd May 2016	1 st March 2017
162084	Coppid Hill House, RG41 4TG	23 July 2016	7 th October 2016
171276	Coppid Hill House, RG41 4TG	23 rd August 2017	19 th April 2018
250735	Land North of School Road	2025	

- 3.7 Upon determining locational sustainability, the following documents are required to be considered, which as can be seen, were all published following the determination of those applications referred to by the Appellant, with the exception of the School Road site:

Policy and Guidance Changes	
Guidance	Date of Publication
WBC Living Streets	2019
DfT Local Transport Note 1/20: Cycle Infrastructure Design	July 2020
DfT Inclusive Mobility	2021
National Planning Policy Framework	December 2024

- 3.8 Based on professional judgement, using up to date planning and transport policy and guidance, the site is deemed an unsustainable location for the quantum of development proposed. This does not amount to unreasonable behaviour.

- 3.9 The Appellant asserts that the Council gave ‘no justification’ for its change in position. This is incorrect as it states the following in the delegated Officer’s report:

It is acknowledged that the previously refused applications the site (see planning history) were not refused on the site being an unsustainable location. However, the quantum of development now proposed is double/ more than double that of the previous schemes. As such, this has to be factored into the assessment and whether the site is sustainable for this higher quantum of development.

Furthermore, the previous residential applications in 2016 were determined under the 2012 version of NPPF, which provided a less rigorous approach to sustainable development. However, the latest NPPF (dated December 2024) has significantly more emphasis on prioritising sustainable travel modes, limiting future car use and promoting well-designed places.

- 3.10 With regards to the School Road application, it is worth noting that site benefits from a Primary School adjacent to the site and a Nursery and Londis foodstore within 700m walk via footways separated from traffic. The Appellant also states that the School Road application was approved despite consultee objections, and so the same approach should have been taken here. Applications of the ‘tilted balance’ are made on a case by case basis, and the fact an approval of a scheme for 70 dwellings elsewhere in the borough was approved by the Council’s committee in light of the tilted balance, does not have bearing on the decision that should have been taken for this application.
- 3.11 With regards to access to public open space, whilst this too was not raised as a concern under previous applications on the site, this scheme again is for a

higher quantum of dwellings and using up-to date guidance and professional judgement, with the correct application of policy TB08. This policy does not feature in the assessment of those previous applications on or opposite the site, but it does not justify non-compliance with the policy with this present appeal scheme.

- 3.12 The Appellant goes on to say that reason for refusal 6, relating to noise, is also inconsistent with previous decisions such as that opposite the site. It should be noted that on page 50 of the Council's validation checklist¹, it states when a planning application should be supported by a noise assessment. One such instance is for *"developments that are considered to be noise sensitive and which are close to existing sources of noise"*:

NOISE ASSESSMENT:

Applications for developments that raise issues of disturbance by noise to the occupants of nearby existing buildings, and for developments that are considered to be noise sensitive and which are close to existing sources of noise should be supported by a noise assessment prepared by a suitably qualified acoustician.

- 3.13 It would have been an expectation that a proposal for new noise sensitive receptors (16 dwellings) in close proximity of a B road and agricultural activity, would be supported by a noise assessment, and the Council's has used its discretion to validate the application pending an assessment by Environmental Health specialists.
- 3.14 Irrespective of previous applications on or nearby the site, an up-to-date noise assessment is required to inform that in principle, a site is suitable in relation to external noise sources. It is also required up-front to demonstrate any specific mitigation that is required and what that would be. Without such, future occupiers could be exposed to harmful levels of noise pollution, making accommodation of poor quality. As such, the reason for refusal did not demonstrate unreasonable behaviour.
- **Suitable technical information had been submitted in relation to highway and tree matters**
- 3.15 As part of the application, the Council did not conclude that technical information submitted by the Appellant in respect of these matters was accurate, and this position remains as part of the appeal. It is not unreasonable behaviour for the Council to exercise professional judgement that does not align with the Appellants. The arguments made by the Appellant are straying into the discussion on these topics that will be reserved for the hearing and the Inspector's due consideration.

¹ Wokingham Council Local Validation List (2025): <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.wokingham.gov.uk/sites/wokingham/files/2025-09/Local%20Validation%20List%20-%202005.09.2025.pdf>

- **That tree T20 is off-site and the Council acted unreasonably by concluding it is on site**

3.16 This matter is discussed within the Council's Statement Of Case for reason for refusal 9. The Council maintains the view that the tree in question was on site for the purposes of this application at the time of determination and is on-site for the purposes of this appeal. As mentioned in the Council's Statement Of Case and supporting evidence from the WBC Ecologist, the scale of the Tree Protection Plan submitted for both the application and updated version for the appeal are at a scale of 1:500 and clearly show the red-line boundary passing directly through the centre of the stem of T20. Given the recognised accuracy of the boundary mapping and the precision of the arboricultural plotting, the submitted evidence demonstrates that T20 is located within the application site. In addition, the Arboricultural Impact Assessment submitted alongside the planning application (Aspect Arboriculture, April 2025) explicitly identifies T20 as "*the site's principal tree*", stating that it occupies the south-western corner of the application site and makes an important contribution to site amenity. This description clearly confirms that the tree is considered to be on-site within the applicant's own supporting documentation.

3.17 The Local Planning Authority has therefore not acted unreasonably in its determination that T20 is off site, based on the information submitted to and made available to the Council by the Appellant.

- **That reason for refusal 5 could have been overcome via a condition**

3.18 The layout shown as part of the application would have resulted in the amenity space of plots 6 and 7 being compromised. The Appellant asserts that a privacy screen could have been secured via condition to overcome this and this is accepted. Updates to the plans have been made during this appeal that have now to show a 1.8m high glazed screen on the balcony of plot 11. This would have not have likely resulted in substantial time or effort from the Appellant to address as part of this appeal and the Council has an obligation to proactively explore ways in which reasons for refusal can be overcome, thereby narrowing the matters in dispute.

4 Conclusion

4.1 To conclude, it would appear that some of the Appellant's grounds appear to be on the basis that they simply do not agree with the assessment carried out by the Council, or that it is not substantiated. Professional disagreement does not amount to unreasonable behaviour, and the Council consider that its assessment is suitably substantiated and reasoned.

4.2 This appeal scheme is for a materially larger residential proposal that what has been previously proposed on the site and therefore it is in conclusion that the site-specific circumstances are incomparable to other schemes on the site or nearby. The Appellant is over-relying on comparisons to other schemes, which are not generally comparable due to their size, or other unrelated

schemes, as opposed to focusing on the harms that were identified as part of the original application, and are for consideration as part of this appeal.

- 4.3 While the Council acknowledges that overlooking from the balcony of plot 11 could have potentially been mitigated by a suitably worded condition for a privacy screen, this does not overcome the more fundamental harms identified in other reasons for refusal of the application, and therefore as a whole the Council has not acted unreasonably with regard to the determination of the application.
- 4.4 The Appellant asserts that there was no effort to engage with the applicant during the application process to clarify points or request additional information. Given the fundamental concerns associated with this proposal, Officers determined that extending the application or seeking further details would not address the identified in-principal harms or facilitate a positive outcome. Nevertheless, the Council is actively collaborating with the Appellant at the appeal stage to ascertain whether any of these issues have since been resolved.
- 4.5 The Appellant was informed in advance of the concerns of the proposal and provided with consultation comments (emails sent to the applicant on 25/09/25 and 26/09/2025 via email) before the decision to refuse the application was formally made.
- 4.6 This scheme was submitted without any pre-application advice, which could have revealed key issues to the Appellant. This was unusual, given the site-specific context of previous refusals and appeals for residential developments on this site, and the significantly larger number of proposed dwellings in the current scheme.
- 4.7 The PPG advises that where Local Planning Authorities have exercised their duty to determine a planning application in a reasonable manner, they should not be liable for an award of costs. It goes on to say:
- “Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.”*
- (PPG, Paragraph: 050 050 Reference ID: 16-050-20140306)*
- 4.8 The Council consider the above is the case and politely request that the award of costs is refused.