



WOKINGHAM BOROUGH COUNCIL

Local Planning Authority Application for Costs

Appellant	Mr R Potyka
Site	Land at Lands End House, Beggars Hill Road, Lands End, RG10 0UD
Local Planning Authority Reference	251124
PINS Reference	6002585

1. This application for an award of costs is made pursuant to section 78 of the Town and Country Planning Act 1990.
2. Guidance on the award of costs in appeal proceedings is set out in the relevant sections of the Planning Practice Guidance (PPG). The PPG explains that the costs regime is intended to improve the efficiency and effectiveness of the planning appeals system (paragraph 029, Ref ID: 16-029-20140306).
3. In planning appeals, parties are normally expected to meet their own costs (PPG paragraph 029). However, the costs regime seeks to encourage discipline within the planning system by imposing financial consequences where a party has behaved unreasonably and caused unnecessary or wasted expense to another party.
4. An award of costs may be made where:
 - a party has behaved unreasonably; and
 - that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
5. The term “unreasonable” is to be given its ordinary meaning, as confirmed by the courts in *Manchester City Council v Secretary of State for the Environment and Mercury Communications Limited* [1988] JPL 774.
6. Unreasonable behaviour for the purposes of an award of costs may be either:
 - procedural, relating to the conduct of the process; or
 - substantive, relating to the merits of the appeal.

Background and Refusal Reason

7. Planning application 251124 was refused for several reasons. This application for costs relates solely to the refusal reason concerning the impact of the proposed development on protected trees and woodland.
8. The relevant refusal reason stated:

The proposed development is located partly within a protected woodland designated under Tree Preservation Order TPO-1611-2017, classified as a 'Woodland' TPO. The proposal would result in the loss and/or deterioration of protected trees, including self-seeded saplings and understorey vegetation, through direct removal, soil compaction, and root disturbance associated with construction, access, and residential use. No arboricultural information or tree constraints plan has been submitted with the application and insufficient information has been provided in respect of on-site veteran trees. As such, the proposal is contrary to policies CP1, CP3 and CP11 of the Core Strategy (2010), policies CC03 and TB21 of the Managing Development Delivery Local Plan (2014), the Borough Design Guide SPD (2012), the Wokingham Borough Landscape Character Assessment (2019), and Section 15 of the NPPF (2024).

Unreasonable Behaviour

9. The site is partly subject to a Woodland Tree Preservation Order. This designation clearly signals the need for early, proportionate and comprehensive arboricultural assessment to inform the design of any development.
10. Despite this clear constraint, the Appellant failed to submit, either at application stage or at appeal stage:
 - an Arboricultural Impact Assessment;
 - a Tree Constraints Plan;
 - adequate information regarding the presence, condition, and protection of veteran trees; or
 - any evidence demonstrating how construction and subsequent residential use would avoid harm to protected trees and woodland.
11. The Appellant was fully aware of the presence and significance of protected trees and woodland before submitting the application. Despite this, the appellant failed to provide any evidence demonstrating that the proposed development could avoid unacceptable harm to the TPO woodland or veteran trees.

12. Due to the location of the development and its proximity to protected woodland and veteran trees, the impact on trees is so fundamental that it goes directly to the principle of development and could not reasonably be deferred to the Technical Details Consent stage. The refusal reason was therefore based on a reasoned planning judgement that the proposed development would likely result in unacceptable harm in principle, in conflict with the Woodland TPO and veteran tree protection. While the appellant did not submit any arboricultural information, this did not cause the refusal; rather, the lack of information meant the appellant failed to demonstrate that this fundamental policy conflict could be overcome.
13. The absence of arboricultural information prevented the Council from properly assessing the proposal and led to refusal. While the Council acknowledges, as set out in its Statement of Case, that the refusal of a Permission in Principle application cannot be based solely on the absence of an Arboricultural Impact Assessment, the need for arboricultural information was nonetheless well-established, proportionate, and fundamental given the site constraints.
14. As a direct consequence of the appellant pursuing an appeal without addressing the fundamental site constraints, the Council incurred unnecessary expense in: reviewing the absent or inadequate arboricultural information, consulting Trees & Landscape specialists, preparing evidence and representations, and defending a refusal reason that could not reasonably have been overcome. These costs would not have arisen had the appellant either submitted adequate arboricultural information at application stage, appeal stage or had chosen not to pursue the appeal in respect of an issue that was fundamentally unacceptable.

Unnecessary and Wasted Expense

14. As a direct consequence of the Appellant's failure to provide adequate information, the Council was required to:
- re-review inadequate or absent arboricultural material;
 - undertake further consultation with Trees & Landscape specialists;

- prepare additional evidence and representations addressing tree and woodland impacts; and
 - defend a refusal reason that remained fundamentally unaddressed at appeal stage.
15. The failure to provide the necessary information meant that the appeal had no reasonable prospect of success in respect of impacts on protected trees and woodland. The Council's costs in responding to this aspect of the appeal were therefore unnecessary and avoidable.
16. The Council has acted reasonably throughout both the application and appeal processes.
17. The Appellant's conduct resulted in avoidable officer time being expended reassessing an unresolved issue and preparing appeal evidence. These costs would not have been incurred had the Appellant either:
- submitted the required arboricultural information at application stage; or
 - chosen not to pursue an appeal without addressing the refusal reason.

Conclusion

18. The Council considers that the Appellant's conduct in relation to the protected woodland and Tree Preservation Order trees constitutes unreasonable behaviour as defined in the PPG.
19. This unreasonable behaviour directly resulted in unnecessary expense being incurred by the Council.
20. The Local Planning Authority therefore respectfully requests a partial award of costs, limited to those costs incurred in dealing with the refusal reason relating to the absence of adequate arboricultural and tree information.