

Costs Application Claim

The Appellant seeks a full award of costs against the Local Planning Authority (Wokingham Borough Council) for what it considers amounts to unreasonable behaviour in its handling and determination of their planning application ref: 251486.

The grounds for this full cost's application are substantive and based upon the following factors:

- 1) That the inclusion of RfR (reason for refusal) 3 is unreasonable and inconsistent as the sustainability or otherwise of the site has not been an issue previously identified by either the Local Planning Authority (LPA), Local Highway Authority (LHA) or Planning Inspectorate in previous applications and appeals on the site. These include application Refs: 161412, 162084 and 171276 with copies of the decision notices included at **Annex 1**. The LPA has offered no justification for this change in position. Further, the position is seemingly at odds with their own development plan as Barkham Hill is a limited development location (Policy CP9 of the Core Strategy) suitable for accommodating up to 25 dwellings (Policy CP17 of the Core Strategy), thus stating it is unsustainable for a scheme that complies with this parameter is clearly unreasonable behaviour. Similarly, there has been no change in position with regard to the site and access to public open space, a matter also not raised in relation to the development directly opposite the site. The NPPG requires LPAs to substantiate each reason for refusal and in this case the LPA has provided no evidence to justify why it no longer considers the appeal site to occupy a sustainable location and now has concerns over access to public open space.

It is also in stark contrast to the position the LPA adopted in the resolution to grant outline planning permission for up to 70 dwellings (Application Ref: 250735) on a greenfield site at nearby Arborfield Cross, another limited development location with the scheme well in excess of the defined threshold of the scale of development this settlement can sustainably accommodate. This in itself would give rise to very significant harm but despite this and consultee objections from policy, highways, landscape and trees, a resolution to grant was passed (committee report included at **Annex 2**). It is not considered that the LPA has determined this appeal in the same manner, behaviour that can justify an award of costs;

- 2) The inclusion of RfR4 is unjustified as the application was accompanied by sufficient information including visibility splays, tracking diagrams and vehicle movement data for the LPA / LHA to be able to assess that the proposal would not result in a detrimental impact upon highway safety. Inaccurate assertions about a proposals impact and unsupported by any objective analysis is considered unreasonable behaviour as specified by the NPPG;
- 3) RfR5 concerns whether Plot 11 would have views into the rear garden of Plot 6 and 7. However, this concern is easily capable of being dealt with by condition requiring the submission of details of a glazed screen to prevent overlooking into these gardens and so was unnecessary to include;
- 4) The LPA has included at RfR6 that the applicant has failed to demonstrate that future residents would not be subject to adverse noise from the surrounding environment. Again, this matter has not been raised with previous applications on this site nor surrounding area including a recent permission on the opposite side of Barkham Road, and the LPA has offered no evidence to justify this departure in position;

- 5) Further unreasonable behaviour has arisen through the LPA including RfR7 relating to trees, as the application was accompanied by clear and sufficient arboricultural information demonstrating that the proposal would not have an unacceptable impact upon trees. This is detailed in the Arboricultural Impact Assessment (April 2025). Whilst elements of the proposal extend into the root protection areas of some trees on the site, this is within acceptable limits of guidance contained within BS5837 and is not as suggested, automatically unacceptable as stated by the LPA in the reason for refusal. The impact upon trees of the required visibility splays had been considered but has no impact, a position that was evident from the supporting information submitted alongside the application. The LPA has made vague and inaccurate assertions with regard to the impact of the proposal upon trees which is a ground cited by the NPPG as giving rise to unreasonable behaviour;
- 6) The LPA included RfR9 due to uncertainty over the positioning of a tree on the boundary of the site, and whether it was onsite in which case it would need to be included within the biodiversity net gain assessment. The LPA did not contact the applicant during the application process in an attempt to try to clarify the position, nor clearly undertook any due diligence themselves. The tree is offsite by some distance and therefore the submitted assessment is accurate. This reasoning is therefore completely un

For the above reasons, the Appellant considers that the LPA has behaved unreasonably through introducing new reasons not previously cited as a concern with the site in the past, with no justification offered for this change in position. In addition, the LPA has included vague and inaccurate reasoning with no attempt made to work with the applicant during the application stage to clarify matters or ask for additional information that would have simply resolved these matters.