



The Planning Inspectorate

Costs & Decisions Team

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Your Ref:

Our Ref: APP/X0360/C/25/3370255
APP/X0360/W/25/3370254

Date: 25 August 2026

Dear Madam

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78, 174, AND 322
APPEALS BY MR JOSEPH SHERIDAN: LAND OPPOSITE 136-144 WARGRAVE
ROAD, TWYFORD RG10 9PN: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Housing, Communities and Local Government in the determination of the Appellant's claim for costs.
2. The Claimant submitted a full award of costs and in the alternative a partial award of costs against Wokingham Borough Council following the withdrawal of an enforcement notice, dated 2 July 2025. The claim is also made in respect of an application for planning permission which resulted from the Council's enforcement action.
3. This decision deals with the appellant's application for an award of costs against the Council included in their statement, the Council's rebuttal and the appellant's response. As these submissions have been made available to the parties it is not proposed to summarise them. They have been carefully considered.

SUMMARY OF DECISION

4. The formal decision and costs order are set out in paragraph 27 below. The costs application in respect of the enforcement action succeeds to the extent that a partial award of costs is being made. However, in the case of the planning appeal the costs application is refused as it did not arise from enforcement action.

BASIS FOR DETERMINING THE APPLICATION FOR COSTS

5. In enforcement notice and planning appeals the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.
6. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of

State to award appeal costs against any party, irrespective of procedural method where it is found that one of the parties to the appeal have behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

7. The application for costs has been considered by reference to the Government's Planning Practice Guidance (PPG) on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the written costs correspondence and all the relevant circumstances.

BACKGROUND

8. A temporary, personal and conditional planning permission was granted on appeal (APP/X0360/W/21/3288874) on 17 October 2022 for the proposed demolition of an existing building and change of use of land for the stationing of a mobile home for residential purposes (one Gypsy and Traveller pitch) and the erection of a single storey utilities building.
9. The Council issued an Enforcement Notice (EN) on 2 July 2025 alleging non-compliance with conditions 1, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13. This was subsequently appealed, reference, APP/X0360/C/25/3370255 (Appeal 1). An appeal was lodged on 31 July 2025 following a refusal of an application for planning permission (ref 250058) on 13 March 2025 seeking to vary conditions 1 and 4 of the original planning permission, referenced as APP/X0360/W/25/3370254 (Appeal 2).
10. Following a High Court judgement¹ handed down on 15 August 2025 the Council withdrew the EN and the Appellant withdrew Appeal 2.

REASONS

11. The claim is made on three grounds:
 - that the notice was withdrawn without good reason (PPG ref 16-047-20140306),
 - the prevention or delaying of development which should clearly be permitted (PPG ref 16-049-20140306), and
 - a lack of evidence to demonstrate that the Council constantly reviewed the case as part of good practice PPG ref ID 16-049-20140360.
12. The conditions included in the appeal decision to allow the Gypsy and Traveller site are central to the 'very special circumstances' which allowed development in the Green Belt.
13. The service of the Notice was prompted by persistent breaches of planning control at the site. Section 10 of the officer's Expediency Report (RFS/2024/089204) which recommended the service of the EN identifies the investigations undertaken by the Council which commenced on 15 May 2023. In summary these involved three site visits and the service of two Planning Contravention Notices (PCN) reference RFS 2023/088185. Whilst the investigation initially focused on a failure to adhere to condition 3 of the permission regarding drainage, other breaches of conditions were identified and the responses to the PCNs identified inconsistencies in the evidence.

¹ Mole Valley DC V Secretary of State for Housing Communities and Local Government and Margaret Meloney [2025] EWHC 2127 (Admin)

This was a substantial body of evidence to merit some form of action in the public interest.

14. It is understood that in response to these investigations the appellant had been instructed to apply for a new scheme for the stationing of caravans for residential purposes at the site but instead applied on 15 January 2025 to vary conditions 1 and 4 of the permission which had been allowed on appeal. This was refused on Green Belt, landscape and tree protection issues on 13 March 2025 and an appeal subsequently lodged.
15. The officer's Expediency Report highlights the breach of conditions but not that an unauthorised change of use had occurred. Whilst it may have been the Council's intention to demonstrate that given the extent of these breaches a material change of use had actually occurred, this is not reflected in the report or by section 3 of the EN which refers directly to the non-compliance with conditions. However, the Steps included in section 5 are consistent with an allegation of an unauthorised use of the site. The appellant was entitled to challenge the decision before it became effective; this would not have negated their right to appeal. This remedy was not pursued. It is not the purpose of this decision to make comments on the validity of the EN.
16. When the site was granted permission on appeal in 2022, part of the land was previously developed land and from the officer's notes of investigation it appears that its extent had increased following the implementation of the temporary planning permission.
17. At the time the EN was served the concept of 'grey belt' was included in the National Planning Policy Framework and defined in its glossary. The Expediency Report refers to the relevant paragraphs included in the Framework which address 'grey belt' together with a statement of how the site contributes to one of the five main purposes identified in Paragraph 143 of the Framework.
18. The introduction of 'grey belt' in the Planning system through the Framework represents a significant departure from the established understanding of the Green Belt which had become a part of the Planning System through Circular 42/55. The PPG update providing clarification on this point was issued in February 2025. It is fair to say that in this context many local planning authorities were 'feeling' their way through the implications of 'grey belt' for several months following its introduction.
19. The Council cites the High Court judgement as the sole reason why the Notice was withdrawn. Whilst the judgement, particularly under Ground 1 re iterates many of the points dating from an earlier Court of Appeal judgement in the Lee Valley Regional Park² it explicitly refers to impacts for land within the Green Belt which is identified as 'grey belt'. In this case, the Council was correct to re consider its position, take stock and withdraw the EN. This revised approach was within its discretion and in accordance with the PPG, (Para:049 reference ID: 16-049-20140360).
20. However, it is unclear why, given the central importance of this judgement to its case, the Council dismissed an opportunity to withdraw the EN following the appellant's letter of 4 September 2025 before citing the case in its letter of 8 October 2025 when the EN was withdrawn.

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

The second appeal was lodged following the refusal of the application seeking to vary Conditions 1 and 4 of the original planning appeal. These conditions restricted occupation to named persons and to the submitted layout of the site. They reflected changes which has occurred and were required to resolve these matters. There is no bearing on the issues relating to 'grey belt' referred to above regarding appeal 1. I acknowledge that the appellant in lodging the appeal was intending to ensure a consistency of approach with the Appeal 1 but it raised different matters.

CONCLUSIONS

21. The Grounds of Claim are specific and are addressed below. In the exercise of its discretion to withdraw the Notice, officers relied on the Mole Valley case. This was entirely appropriate although it is unclear why it did not address this following the appellant's request on 4 September 2025.
22. There is insufficient evidence before the Secretary of State to identify whether the Gypsy and Traveller site should clearly be permitted having regard to the development plan, national policy and other material considerations. The withdrawal of the Notice does not imply that a Gypsy and Traveller site which does not fit within the exigencies of the extant permission would still be permitted at the site.
23. Finally, given the extent of site investigations and that two PCNs were served, the Secretary of State is satisfied that there would have been ongoing review and scrutiny in advance of the service of the EN. However, on receipt of the appellant's letter of 4 September 2025, a thorough review should have been completed. The fact that several weeks later a completely different view was taken is evidence that the earlier review had not been thorough in this regard.
24. The costs sought by the appellant are for the work involved in the submission and administration of Appeals 1 and 2 including the preparation of and drafting of materials and liaison with expert witnesses together with the costs involved in the claims.
25. The Council behaved unreasonable only to the extent that that it did not address the claimant's concerns from 4 September in respect of Appeal 1. In respect of Appeal 2, the costs involved relating to both the submission of the application and appeal reflected changed circumstances on the site unrelated to the definition of 'grey belt' land.
26. Given the discretionary powers of the Council to review cases as they proceed and the particularly sensitive interpretation of 'grey belt' the Secretary of State finds that the claim for costs should be restricted to work incurred by the appellant from the date of their letter of 4 September 2025 in respect of Appeal 1 only. Given the substance of the Appeal 2 and the fact that it was the claimant's intention to pursue a new application to resolve matters the Council did not behave unreasonably.

FORMAL DECISION

27. For the reasons given above, the Secretary of State has decided that a partial award of costs against the Council, on grounds of "unreasonable" behaviour resulting in "wasted" or "unnecessary" expense is justified in the circumstances.

COST ORDER

28. Accordingly, the Secretary of State for Housing, Communities and Local Government, in exercise of her powers under section 250(5) of the Local Government Act 1972, and sections 174 and 322 of the Town and Country Planning Act 1990 (as amended), and all other powers enabling her in that behalf, **HEREBY ORDERS** that Wokingham Borough Council shall pay to Mr Joseph Sheridan his costs of the enforcement appeal (Appeal 1) proceedings before the Secretary of State limited to those costs incurred from 4 September 2025 ; such costs to be assessed in the Senior Court Costs Office if not agreed.
29. You are now invited to submit details of those costs to Simon Davis, Principal Planning Officer at Wokingham Borough Council, with a view to reaching an agreement on the amount. A copy of this letter has been sent to him.

Yours faithfully

S Wilkinson

STEPHEN WILKINSON
Authorised by the Secretary of State
to sign in that behalf