

**APPEAL BY CP LOGISTICS UK READING PROPCO LTD**

**APP/W0340/W/25/3360702**

**LAND BOUNDED BY HOAD WAY AND M4 AND HIGH  
STREET, THEALE, WEST BERKSHIRE**

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**LOCAL PLANNING AUTHORITY'S  
RESPONSE TO APPELLANT'S  
APPLICATION FOR COSTS**

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Introduction

1. This is the response of the Local Planning Authority ("the Council") to the Appellant's application for costs.
2. The Council submits that the application should be refused because it has not behaved substantively unreasonably in its conduct of this appeal and the Appellant has not been put to any unnecessary or wasted expense. The application does little more than reiterate the Appellant's case from its closing submissions and does not disclose any grounds for making a costs order against the Council.

No unreasonable behaviour

3. The Appellant makes seven "*salient points*" between paras 22-33 of the application. The Council responds as follows.
4. Firstly, the Appellant argues that the Council ought to have withdrawn the first reason for refusal following the adoption of the Local Plan Review ("LPR") which does not seek to provide employment land to meet 100% of the requirement for employment land (para 22). However, the position taken by the Council in its first reason for refusal was expressly endorsed by the examining Inspector, i.e. that the shortfall in employment land was justified for reasons based in national planning policy, that there were strong reasons for preventing development in other locations –crucially, including the appeal site – and that the Council had sufficient supply to meet short-term needs. It was therefore entirely reasonable for the Council to seek to defend that approach.
5. Secondly, the Appellant makes a series of arguments (para 23) based on matters of common ground, i.e. that the development plan does not set out a blanket prohibition of development beyond settlement boundaries and that Theale is a sustainable location. None of these matters

has ever been disputed by the Council and therefore it is difficult to understand how this indicates unreasonable behaviour on its part.

6. Thirdly, the Appellant argues (para 24) that the Council has now accepted that the proposal supports the rural economy. The purpose of an inquiry (which the Appellant specifically requested in this case) is to test the evidence and it is not unreasonable for a witness to take a different view on an aspect of their party's case depending on how the opposing view is put in cross-examination. It should be noted that the point with which Miss Kirk agreed – based on paragraph 12.21 of the supporting text to Policy DM35 regarding the creation of “*local jobs*” – was not one that Ms Dutfield had made in her own written evidence (see paras 6.26-6.30).
7. The Appellant then goes onto acknowledge that the question of whether a development is limited in scale is a qualitative judgment and claims to have made a “*robust case that the scale of this proposal is appropriate and proportionate*”. That is, of course, an essentially subjective matter on which views may reasonably differ. The Council's position has always been clear that the proposal is of an excessive scale for its location on the eastern edge (and outside of the settlement boundary) of Theale. The fact that the Appellant disagrees does not make the Council's view unreasonable.
8. Fourthly, the Appellant mischaracterises the Council's supply position has having become worse (para 26). The Thames Valley Police planning permission was always known about (see footnote 43 to Policy ESA1 [CD2.44]) and expressly taken into account by the examining Inspector (see paras 261, 264 and footnote 82 [CD2.6]). In this appeal, the Council's evidence on employment land supply was always presented as a range, allowing for the likelihood of the Thames Valley Police planning permission being implemented. However, even with that reduction, there remains a supply equivalent to 11.5 years.
9. Fifthly, the Appellant criticises the Council's “*optimism*” about the post-adoption review of employment land supply (para 27). However, again, the Council is simply defending a position that was expressly endorsed by the examining Inspector, i.e. that there are sufficient sites to bridge the gap between adoption of the LPR and its first five-year review. Given that the LPR was adopted exactly one week prior to the opening of the inquiry, it is not a fair or reasonable criticism that the Council has failed to update its local development scheme. Miss Kirk's evidence, given on instruction from her colleagues in the Council's planning policy team, is that work on the review will begin this year and there is no reason to doubt that. The points made under this head by the Appellant are points for closing submissions; they do not demonstrate unreasonableness on the part of the Council.
10. Sixthly, the Appellant argues that the delegated report “*failed to properly reflect the comprehensive consultation response from its economics team*” (para 30). It is difficult to see

how this is relevant to the Council's conduct of this appeal. It has never disputed that the proposal performs very well when considered purely from an economic land perspective. The original consultation response from the Council's economic development officer was available to the decision-maker and was not required to be quoted in full in the delegated report. The economic development officer was a consultee and not the decision-maker: it was ultimately for the decision-maker to weigh in the balance that response along with all other material considerations. The fact that the decision-maker gave less weight to the economic benefits of the proposal than the economic development officer does not make the Council's position in this appeal unreasonable.

11. The Appellant also mischaracterises Miss Kirk's approach to Policy DM35 in her proof of evidence (para 31). Her primary argument, clearly articulated in her proof of evidence, was that Policy DM35 was not relevant but she expressly recognised the possibility that it was relevant, and therefore set out her view of the proposal against the criteria in the policy (see paras 3.3 and 3.11).
12. Seventhly, the Appellant quotes out of context the final point raised in the first reason for refusal, relating to patterns of uses (para 32). This part of the reason for refusal – when read in full – makes clear that this objection relates to *“separation and distinction between the residential settlement of Theale and the commercial area to the south, which would be eroded by the proposed development”*. This is a reasonable concern to express with regard to the principle of development, given the deliberately restrictive approach taken by the spatial strategy to development outside of settlement boundaries. The Council has never suggested that there were residential amenity objections to the proposal.
13. In summary, the Council submits that none of these points individually or cumulatively comes close to disclosing unreasonableness in its defence of the first reason for refusal in this appeal.

#### No wasted or unnecessary expense

14. Given that it was reasonable for the Council to defend the first reason for refusal, it follows that the costs incurred by the Appellant in preparing its case on this main issue have not been wasted or unnecessary.
15. In any case, the Council notes the *“core submission”* (para 20) that the Council *“[failed] to review its position in light of the evidence presented at the inquiry in relation to RFR1. Given the substantial concessions made in evidence under cross-examination, the Council ought to have acted reasonably and withdrawn its first reason for refusal.”* If that is the premise for making this application (which the Council does not accept), it follows that the Council would not have been in a position to withdraw the first reason for refusal until the very last day of

evidence. In these circumstances, the Appellant could not have been put to any wasted or unnecessary expense, given that virtually all of the evidence had already been called (and Ms Dutfield, as the Appellant's planning witness, would have been required to give evidence in any event).

### Conclusion

16. For all of these reasons, the Council submits that the application is no more than a reiteration of the Appellant's closing arguments, has no merit and should be dismissed.

**Matt Lewin**  
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25 June 2025