



Costs Decision

Site visit made on 10 March 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Costs application in relation to Appeal Refs: APP/M3645/X/25/3358927 and APP/M3645/X/25/3358925

Land adjacent to 2 Carewell Cottages, St Piers Lane, Lingfield, Surrey, RH7 6PN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Ms Elizabeth Hadland for an award of costs against Tandridge District Council.
- The appeal was against the Council's decision to refuse to issue a lawful development certificate (LDC) relating to the use of the land, and also its decision to refuse to grant approval under the Prior Notification procedure for the proposed erection of a building.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The essence of this case is the applicant's belief that the Council refusing to issue a LDC, and the refusal under the prior notification procedure, incurred significant time and expense. This, it is claimed, has put woodland management at Buck Hurst Wood on hold, and increases the risks of pests and diseases within. An approach of restraint is, though, inconsistent with the appellant's view that the land is currently in use for forestry purposes, and I can only deduce from this that there has been a fear of the Council taking enforcement action against the continuation of the current use of the land. However, I have seen nothing to suggest that this has been threatened, as the Council has previously taken the view that the timber stored at the site was used primarily for domestic purposes. Accordingly, enforcement investigations were closed.
4. As mentioned, in my main decision letter, given the Council's comments that no planning permission would be required to use the land for forestry purposes, an application could have alternatively been made under s192 to get a formal determination that this would not constitute development. The manner of the current use of the site would have no bearing on this. Instead, the submission made has meant grappling with the tests required to show that the existing use is as claimed on the application form. Despite the totality of the evidence supplied I reached the same conclusion as the Council, that, on the balance of probabilities,

the burden of proof had not been discharged, and I do not need to reiterate my findings here.

5. Finally, the appellant gave substantial weight to the *Farlayer* judgement, and relied on this to a great extent in attempting to support her case. However, this is only one of the factors involved here. Notwithstanding that Scottish case law is not binding on the English legal system – although I acknowledge that it is a consideration of some materiality, and I have drawn a comparison with the current case - the appellant did not properly approach the fundamental issue arising from the submission made as there was little or no proper analysis as to how the use occurring, and its elements, could realistically be described and may have evolved, throughout the relevant ten year period to justify that an LDC should be issued. Instead, disproportionate emphasis was given to the Buck Hurst Wood connection, yet this only took place towards the end of the said period.
6. From the evidence I am satisfied that the Council, in reaching its decision, correctly and fairly, properly discharged its function. The reasons for refusal on both applications are cogent and rational, and I consider it unrealistic to suggest that the appeal would not have ensued if the Council had approached the matter differently.
7. As such, I am not convinced that unreasonable behaviour resulting in significant unnecessary or wasted expense, as described in the PPG, has been demonstrated.
8. I therefore refuse the application for an award of costs.

T C King

INSPECTOR