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## Costs Decision

Site visit made on 31 October 2016

**by Thomas Bristow BA MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 November 2016**

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### **Costs application in relation to Appeal Ref: APP/B9506/D/16/3156267 Barnfield Lodge, South Weirs, Brockenhurst, Hampshire SO42 7UQ**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Linton Connell for a full award of costs against the New Forest National Park Authority.
  - The appeal was against the refusal of planning permission for extensions to existing outbuildings to create additional car garages and partial demolition of existing outbuildings.
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### **Decision**

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

### **Reasons**

2. Irrespective of the outcome of the appeal, the *Planning Practice Guidance* (the 'Guidance') sets out that costs may only 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.<sup>1</sup>
3. The appellant's case for an award of costs is on substantive grounds which are, briefly stated, that the New Forest National Park Authority failed to take due account of an extant permission, and in so doing failed to substantiate their reasons for refusal based on appropriate evidence.
4. The planning background in this case is set out in paragraphs 7 to 9 of the appeal decision. In summary the proposal to which the appeal relates was preceded by a successful application, Ref 14/00410 (the '2014 permission'), and an application which was withdrawn prior to determination, Ref 15/00881 (the '2015 application'). Both the 2014 permission and 2015 application relate to the replacement of the same group of outbuildings within the appeal site with a building or buildings of differing designs.
5. The proposal approved via the 2014 permission was amended at the request of the Authority during their determination thereof. The Authority explained to the appellant that they were unsupportive of the proposal made via the 2015 application, which was consequently withdrawn. The appellant contends that by referring predominantly to the proposals that the Authority considered

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<sup>1</sup> Reference ID: 16-030-20140306.

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- unacceptable, insufficient consideration was given to the 2014 permission which remained extant at the time of the appeal.
6. Although much of the Authority's officer report is given over to the previous proposals that were not supported, reference to the 2014 permission is clearly made within the Authority's officer report associated with application Ref 16/00419 to which the appeal relates (including explicitly in paragraphs 10.2, 11.2 and, by reference to the features of that permission, in paragraph 11.7).
  7. A copy of an email from the Authority to the appellant, dated 5 July 2016, which precedes their decision notice, is before me. This again references the 2014 permission and explains the Authority's views in respect of the merits of the current proposal compared to its predecessors. As the Authority have clearly taken account of the 2014 permission, and referenced certain differences between this and the proposal to which application Ref 16/00419 relates, they have not in my view acted unreasonably here.
  8. The main issue in the appeal was the effect of the proposal on the character and appearance of the host property and the surrounding area. In this context it is important to note that whether a proposal is acceptable in respect of character and appearance is reliant upon planning judgement rather than a matter which can be settled with reference to exact metrics.
  9. Whilst there are similarities between the proposal to which application 16/00419 relates compared to that permitted via the 2014 permission, there are also clear differences (as discussed in paragraphs 21 and 25 of the appeal decision in particular). Indeed such differences are illustrated on plan 8237-802 REV C submitted at appeal by the appellant.
  10. Consequently, and given that the Authority has considered the differences between the current proposal and its predecessors as set out above, in my view the Authority have suitably explained the reasoned consideration that led them to refuse application 16/00419 based on its particular merits.
  11. Although I have reached a different judgement regarding the acceptability of the proposal, for the above reasons it cannot therefore be said that the development proposed should clearly have been permitted, that the authority acted in an inconsistent or improper manner in granting the 2014 permission but refusing application 16/00419, or did so on the basis of unsupported grounds.<sup>2</sup>
  12. For the above reasons I am not of the view that unreasonable behaviour resulting in unnecessary expense has been demonstrated. I therefore conclude with reference to the approach in the Guidance that an award of costs is not justified in this instance.

*Thomas Bristow*

INSPECTOR

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<sup>2</sup> With reference to the types of behaviour identified in Guidance Ref ID: 16-049-20140306 which may give rise to a substantive award of costs against a local planning authority.