



Costs Decision

Site visit made on 4 December 2018

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2018

Costs application in relation to Appeal Ref: APP/B9506/W/18/3209584 Land rear of Primrose Cottage, Cuckoo Hill, South Gorley SP6 2PP

- 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 Mr J Barrell for a full award of costs against the New Forest National Park Authority.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made on the basis that the local planning authority has refused permission without having due regard to the advice in the PPG in respect of the use of conditions.
4. The PPG advises that local planning authorities will be at risk of an award of costs against them by unreasonably refusing planning applications. It goes on to advise that development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations should not be prevented or delayed and that it is unreasonable to make vague, generalised, or inaccurate assertions about a proposals impact which are unsupported by objective analysis.
5. In my decision on the appeal I have set out what national policy and guidance says in respect of conditions. The latter is an important material consideration. The personal circumstances and use the applicant made of the site formed the Inspector's reasoning for granting a personal permission in 1990. That decision was made some time ago and it is incumbent on the local planning authority to have regard to current policy and guidance. That did not happen in this case and no cogent evidence was provided to show how retaining the permission as personal to a named individual would prevent an intensification of the use.
6. It appears that there was a link between the use of the appeal site and the applicant's operation of an adjacent tree nursery. However, there are no controls in place to require that there is a tangible link between the two and retaining the use to a named individual would not ensure that this was

maintained. This does not therefore provide a rational basis for retaining the first condition.

7. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A full award of costs is therefore justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the New Forest National Park Authority shall pay to Mr J Barrell, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the New Forest National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

K Taylor

INSPECTOR