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## Costs Decision

Site visit made on 15 February 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 29 April 2016**

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### **Costs application in relation to Appeal Ref: APP/B9506/D/15/3139442 Roydon Cottage, Sandy Down, Boldre, Lymington, Hampshire SO41 8PL**

- 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 Mrs Ruth Forsyth for a full award of costs against New Forest National Park Authority.
  - The appeal was made against the refusal of planning permission for a garden room.
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### **Decision**

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

### **Preliminary Matter**

2. The NPA did not respond to the Planning Inspectorate's letter inviting rebuttal comments on the costs application.

### **Reasons**

3. Irrespective of the outcome of the appeal, 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.
4. The applicant considers that the NPA has behaved unreasonably in not taking into account Government policy in the form of the 2014 changes to the GPDO as a material consideration to be weighed against the more restrictive provisions of Policy DP11 of the National Park's Core Strategy of 2010.
5. I agree with the appellant that for the NPA to reject the principle of other material considerations to be taken into account and weighed in the balance with the development plan, as it appeared to do in the officers' report, is inappropriate in terms of the handling of a planning application.
6. On the other hand I am reluctant to conclude that it was 'unreasonable' for the NPA not to support a departure from an adopted policy, which is the position in this case that has led to the appeal being allowed. The Government's Planning Practice Guidance 2014 provides examples of unreasonable behaviour that could lead to an award of costs against a Local Planning Authority and the failure to support an exception to a development plan policy does not seem to me to be on all fours with the thrust of that Guidance.
7. This is particularly so in this case because the determining factor in my decision to allow the appeal is the planning obligation, which I consider made the

proposed development acceptable, when a condition would not have the same certainty in that respect.

8. The application was refused on 13 October 2015 but the first version of the Unilateral Undertaking was not signed and submitted until 25 November 2015 as part of the appeal process, and also in a form that in my view required amendment. The amended version was submitted in March 2016 and this has enabled me to allow the appeal. Accordingly, although a planning obligation may have been canvassed in discussions with the NPA, it was not formally submitted it as part of the application process.
9. Overall, although I consider that the application for an award of costs has some merit, on balance I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.
10. The application is therefore refused.

*Martin Andrews*

INSPECTOR