

Costs Decision

Site visit made on 30 October 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Costs application in relation to Appeal Ref: APP/B9506/W/19/3232567 Hazelmere, Southampton Road, Cadnam SO40 2NB

- 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 New Forest National Park Authority for a full award of costs against Primegold Estates Ltd.
 - The appeal was against the refusal of planning permission for creation of 6 semi-detached dwellings with associated landscaping and parking.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG² also lists different types of behaviours which may give rise to a substantive award against an appellant, in instances where the appeal or ground of appeal had no reasonable prospect of succeeding. This may for example occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. The Authority is seeking an award of costs on this basis, and no rebuttal has been submitted by the appellant.
4. The Authority assessed the proposal against the policies contained within the New Forest Local Plan Core Strategy and Development Management Policies DPD (December 2010). The New Forest National Park Local Plan 2016-2036 (LP) was subsequently adopted in August 2019, during the course of the appeal. The application was refused for six separate reasons, which the appellant sought to address through the appeal process, by submitting additional information as a means of addressing the concerns raised by the Local Planning Authority and the Highway Authority. It did not result in the introduction of new issues. The Authority responded accordingly within their appeal statement, and it does not appear that the additional information significantly affected their case.
5. As set out in my decision, there were no material considerations which indicated that the appeal should be determined, other than in accordance with

¹ Paragraph: 030 Reference ID: 16-030-20140306.

² Paragraph: 053 Reference ID: 16-053-20140306.

the development plan. Whilst I found conflict with the development plan, it is clear that some of the issues at dispute involved matters of judgment for the decision maker. Additionally, although the then emerging LP was at an advanced stage of preparation, I am not certain that the appellant could have known that it would be adopted during the appeal process. For these reasons, I consider that the appellant did not behave unreasonably in submitting the appeal or that he failed to submit adequate supporting evidence to substantiate his grounds of appeal.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been established. As such, an award of costs is not justified.

S Edwards

INSPECTOR