



Costs Decision

Hearing held on 3 March 2026

Site visits made on 2 March 2026 and 1 May 2026

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 July 2026

Costs application in relation to Appeal Ref: 6001076

Land between Lower Pennington Lane and Ridgeway Lane, Lymington SO41 8AN

- 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 Cicero Estates Ltd for a full award of costs against New Forest National Park Authority.
 - The appeal was against the refusal of planning permission for access; attenuation basin; associated works and landscaping relating to New Forest District Council Strategic Housing Allocation reference SS6.
-

Decision

1. The application for 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. Permission was refused by the Authority for two reasons, the second of which was remedied through the eventual agreement and submission of a s106 legal agreement (S106). It is correct of the Authority to say that the S106 was not in place at the time that it made its decision and the appeal was not entirely avoidable and the Authority has co-operated with the drafting and execution of the S106.
4. The first reason for refusal essentially outlines that there is no justification for the development in the New Forest National Park without a positive outcome on the related application within the jurisdiction of the New Forest District Council (NFDC). No planning policies of the development plan or national policy were set out in this reason for refusal. These were eventually added within the Council's Statement of Case, indicating that the reason for refusal was, to an extent, incomplete and imprecise.
5. The recommendation of the professional officers to NFNPA's Planning Committee was for authorisation to be given to the Head of Planning to grant planning permission "... *Subject to a positive recommendation from the New Forest District Council in relation to planning application 22/11424*" and the prior completion of a S106 legal agreement. Due to the deliberately planned timing of the respective committee meetings in an effort to co-ordinate the outcomes, the NDFC motion to refuse planning application 22/11424 was passed ahead of NFNPA's Planning

Committee's consideration of the appeal scheme. The conditional nature of the recommendation indicates that the eventual outcome to refuse should not have come as a surprise.

6. I acknowledge that unlike the appeal scheme within the NFDC area, the appeal scheme within NFNPA does not have the benefit of a policy allocation under the development plan. It should not have been assumed that the development would automatically have been granted as a facilitative scheme for a neighbouring authority's allocated site. Without that scheme progressing in the neighbouring authority area, there is little rationale to permit development within a sensitive landscape such as the National Park if not on the basis of any specific policies of the development plan, then under the terms of national planning policy and guidance. Though this was not accurately recorded on the decision notice, the Authority have provided sufficient evidence to justify the reason and have not persisted unreasonably with it. The imprecision of the reason for refusal does not appear to have contributed to material wasted costs and as evidenced in the costs correspondence, the matters relating specifically to the NFNPA appeal case did not take up much time at the appeal hearing itself.
7. I understand the applicant's concerns that the refusal by NFNPA resulted in a negative feedback spiral, but consider that the unusual cross-boundary nature of the development across two local planning authority areas and two applications has also contributed to the inability for the schemes to be determined straightforwardly without any bespoke arrangements having been made other than the deliberate timing of the respective Planning Committee meetings.
8. As such, I do not find that unreasonable behaviour under the terms of the PPG has been demonstrated. Consequently, the application for costs is refused.

H Nicholls

INSPECTOR