Planning Inspectorate

Costs Decision

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2026

Costs application in relation to Appeal Ref: APP/B9506/X/24/3354335
Little Bourne, Off Balmer Lawn Road, Brockenhurst, Hampshire, SO42 7TS

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr and Mrs Hill for a full award of costs against New Forest National Park Authority.
- The appeal was against the refusal of failure of the New Forest National Park Authority to issue a certificate of lawful use or development for use of the property as a self-contained single dwellinghouse.

Decision

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

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. The appellants submit that the New Forest National Park Authority (NPA) acted unreasonably by persisting in the defence of the appeal when they had accepted in their statement of case (SOC) that they had been in receipt of all of the appellants' evidence when they determined the application but due to an administrative error had not taken it all into account in their determination. Having regard to the Authority's only remaining areas of concern, that Council Tax had not been paid on the property, and the absence of separate utilities, then the NPA should not have continued to defend the appeal. The appellants advise that they incurred unnecessary costs in having to engage the services of a professional planning consultant to assist in their appeal.

4. In response, the NPA contend that it was not unreasonable for them to refuse the application and that their appeal statement further substantiated their reason for refusal. They do not believe the appellants have been put to unreasonable expense in submitting and pursuing the appeal.

5. PPG advises that a local planning authority may be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples include, not

reviewing their case promptly following the lodging of an appeal, as part of sensible on-going case management[1].

6. The NPA refused the application for an LDC on 5 September 2024 for the following reason:

   "On the evidence available, the Authority is not satisfied on the balance of probabilities that the property has been occupied as a single residential dwelling for a continuous period of four (4) years prior to the date of this application."

   It is clear from the Officer's Report in considering the application that they had not had sight of several pieces of evidence which formed part of that application. That evidence included: records from Travel Chapter between 2021 and 2024; First Direct bank statements; and a Statutory Declaration from one of the tenants.

7. On submission of their appeal the appellants engaged a planning consultant who wrote to the NPA pointing out that there had been an error by the NPA either at validation or in the handover between officers which has resulted in key evidence not being considered. The consultant advised that they were minded to submit a costs application but would be open to resubmitting the LDC application under a free submission and in return would withdraw the appeal and any costs application against the NPA. It is apparent from a subsequent email trail, that this approach was to be considered by the NPA. However, despite the appellant chasing several times no progress with the NPA was made and the appeal progressed[2].

8. The NPA supported their refusal at appeal with a SOC. It is clear from that SOC that the NPA had now had sight of all the evidence submitted with the application and acknowledged that the property had been occupied by "third parties" for the relevant period. However, the SOC introduces further concerns in relation to that use and asserts that in the absence of Council Tax payments or separate utility bills for the appeal property, the NPA do not consider that the use of the property is fully unfettered as it is reliant on the services of the main dwelling. They assert that its occupation is linked to the use of the neighbouring property and not a separate planning unit.

9. It is unfortunate that the NPA, for whatever reason, did not have sight of all the evidence submitted with the LDC application when they made their decision. Having regard to the absence of sight of that key evidence, which demonstrated continuous occupation, it was not therefore unreasonable for the NPA to refuse the application. However, once the appeal was submitted and the appellants immediately sought to engage with the NPA to highlight the error, the NPA should have reviewed its case. It is clear from the email trail provided by the appellants (Appendix 1) that an Officer did seek to find a resolution, however, that resolution did not materialise. Instead, the NPA continued to defend the appeal by introducing a new argument, one not previously set out in the Officer Report, suggesting that the absence of utility bills for the property or Council Tax payments indicate that the property is not an unfettered self-contained dwellinghouse.

10. It can be seen by my decision that the absence of separate utilities or Council Tax payments are not determinative when considering whether a dwelling has been occupied as such. The NPA had accepted that on the relevant date the property

[1] PPG, Paragraph: 049 Reference ID: 16-049-20140306.
[2] Email Trail, Appendix 1, Appellant's Cost Application.

was a dwellinghouse, with all the facilities for day-to-day living. Furthermore, having sight of all the evidence they also accepted that the property had been occupied continuously without significant interruption during the relevant period. Thus, it seems to me that once the appeal was submitted and they had sight of all the evidence, they should have reviewed their case rather than seek to introduce additional arguments which they should have been aware from previous Inspector's decisions before them, would not be determinative.

11. The NPA continued to defend the appeal when, given the appeal evidence before them, it was unreasonable to do so. Consequently, the appellants incurred unnecessary and wasted expense defending the appeal.

Conclusion

12. For the above reasons, I find unreasonable behaviour by the NPA, resulting in unnecessary expense, as described in the Planning Practice Guide, has been demonstrated and that a full award of costs is justified.

Costs Order

13. 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 New Forest National Park Authority shall pay to Mr & Mrs Hill, 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.

    The applicants are now invited to submit to 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.

Elizabeth Pleasant

INSPECTOR