

Costs Decision

Hearing Held on 3 August 2017

Site visit made on 3 August 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 14 August 2017

Costs application in relation to Appeal Ref: APP/Y9507/W/17/3170812 Brewers Farm, Brewers Lane, West Tisted, Alresford SO24 0HQ

- 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 the South Downs National Park Authority for a full award of costs against Mr & Mrs J Wedderburn-Maxwell.
 - The hearing was in connection with an appeal against the refusal of an application for planning permission for a two storey dwelling and cart shed following demolition of two existing agricultural buildings and concrete yard.
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Decision

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

Procedural Matters

2. The application was given in writing prior to the Hearing with the appellants also making their response in writing. The National Park Authority made their final comments verbally at the Hearing. As all parties are aware of the grounds of the application and the responses, I will not repeat them in this decision.
3. While the claim for costs includes references to East Hampshire District Council, the Council produced evidence at the Hearing that they act on behalf of the South Downs National Park Authority in respect of this appeal. On this basis, the claim is sound, and I consider it below.

Reasons

4. 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. The National Park Authority claims that the proposal was not in accordance with the development plan and therefore had no reasonable prospect of succeeding.
 5. The PPG sets out that appellants are at risk of an award of costs being made against them if the appeal or grounds of appeal had no reasonable prospect of succeeding. This may occur when; the development is clearly not in accordance with the development plan, and no material considerations are advanced that indicate that a decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
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6. Whilst I found in favour of the National Park Authority, this does not determine the outcome of this application for an award of costs. The appellants' case was not without substance. They raised numerous considerations in support of the proposal despite the indications of the development plan. These were backed-up by substantial evidence, with reference to appeal decisions or external sources of support. I have had to consider their arguments carefully. The case was ultimately unpersuasive but it was extensive and reasonably made. It cannot be said to have had no reasonable prospect of success.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Patrick Whelan

INSPECTOR