The Planning Inspectorate

Costs Decision

Hearing Held on 26 April 2021
Site Visit made on 27 April 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2021

Costs application in relation to Appeal Ref: APP/B9506/W/20/3257388
Land at the former Flying Boat Inn site, Calshot Road, Calshot SO45 1BP

- 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 New Forest National Park Authority for a full award of costs against Mr H Ghahramanizadi, FB Estates Ltd.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of seven dwellings, access and parking.

Decision

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

Procedural matter

2. The application was made in writing prior to the Hearing. A written rebuttal was provided by the appellant at the Hearing and final comments of the National Park Authority given orally.

3. The Authority's final comments broadly set out that they had not, themselves, acted unreasonably in consideration of the application, decision, or response to the appellant's grounds of appeal; that the adopted policies of the development plan and Inspector's report following the examination were fully available to the appellant prior to submission of the application; matters discussed at the local plan examination should not be re-opened now; there is a healthy supply of windfall development; and that a proposal for 7 open market houses in the National Park does not have support from national planning policy.

Reasons

4. The Planning Practice Guidance 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.

5. Appellant's can be at risk of an award of costs against them for pursuing a proposal that clearly has no reasonable prospect of succeeding. This proposal is clearly contrary to the spatial strategy of the development plan. However, whether or not the appellant has misrepresented national planning policy and guidance, material considerations have been advanced that could indicate otherwise that the development ought be permitted.

6. At the Hearing, there was a full discussion of those material considerations, including those surrounding previously developed land, windfall housing supply and the possible conservation and enhancement of landscape and scenic

beauty. While I have found that other material considerations to not outweigh the conflict with the development plan, sufficient evidence was provided to clarify the appellant's case overall. As such, I find that the submission of an appeal on the basis advanced by the appellant is not unreasonable behaviour.

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

M Bale

INSPECTOR