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## Costs Decisions

Site visit made on 22 January 2024

**by Neil Pope BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 February 2024**

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### **Costs application in relation to Appeal A Ref: APP/D1265/W/23/3323170 19a, Knighton Lane, Broadmayne, Dorset, DT2 8PH.**

- 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 Mr James Meaden for a partial award of costs against Dorset Council.
- The appeal was against the refusal of planning permission for 4 detached bungalows.

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### **Costs application in relation to Appeal B Ref: APP/D1265/W/23/3331775 19a, Knighton Lane, Broadmayne, Dorset, DT2 8PH.**

- 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 Mr James Meaden for a partial award of costs against Dorset Council.
- The appeal was against the refusal of planning permission for up to 3 detached bungalows.

## **Decisions**

1. The applications are approved in the terms set out in the Order below.

## **Reasons**

2. 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.
3. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; acting contrary to, or not following, well-established case law and; persisting in objections which an Inspector has previously indicated to be acceptable.
4. Within the appeal decisions, I came to the same view as the Local Planning Authority (LPA) that there would be conflict with development plan policies for the provision of housing. Like the LPA, I also took into account the planning history of the site, including the certificate of lawful existing use or development for the siting of caravans for residential purposes.
5. The weight to be attached to this fallback position is a matter of planning judgement for the decision-maker. It was not unreasonable for the LPA to reach a different view to me on this matter. Moreover, not all professionals will agree upon the interpretation of caselaw.

6. However, given the findings of the Inspector who determined the previous recent appeal in 2023, it was incumbent upon the LPA to substantiate its argument in the appeals that were before me, as to why the realistic fallback position of installing further caravans on the site should not be followed.
7. It is reasonable to assume that in considering the fallback position the previous Inspector would also have had in his mind the matter of intensification of use. In raising this matter in the appeals before me, the LPA failed to produce any cogent evidence to substantiate its argument. This amounts to unreasonable behaviour which caused the appellant to incur unnecessary expense in refuting the matter (fallback position) within these appeals.
8. I therefore conclude that a partial award of costs would be justified.

### **Costs Order (Appeals A and B)**

9. 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 Dorset Council shall pay to Mr James Meaden the costs of the appeal proceedings described in the heading of these decisions. These costs shall be limited to those incurred by the applicant in responding to the Local Planning Authority's reason for refusal numbered 1. In particular, those costs associated in addressing the conflict with development plan policies SUS2, HOU6 when weighed with the fallback position available to the applicant.
10. The applicant is now invited to submit to Dorset Council, to whom a copy of these decisions have been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

*Neil Pope*

Inspector