



24 February 2009

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APP/C1435/A/07/2046982
APP/C1435/A/07/2042597
APP/C1435/A/07/2053422

Dear Sir,

LOCAL GOVERNMENT ACT 1972 – SECTION 250(5)

TOWN AND COUNTRY PLANNING ACT – SECTIONS 78 AND 320

- A) APPEAL BY CLARENCE PRESTON WILL TRUST AND BARHAM ESTATES LTD – DOWNLANDS FARM, SNATTS ROAD, UCKFIELD, TN22 2AP
APPLICATION REFERENCE: WD/2006/2855/MEA**
- B) APPEAL BY TAYLOR WIMPEY (UK) LTD – LAND AT BIRD IN EYE NORTH, FRAMFIELD ROAD, UCKFIELD, TN22 5HA
APPLICATION REFERENCE: WD/2006/2173/MEA**
- C) APPEAL BY HERON LAND DEVELOPMENTS, PERSIMMON HOMES AND GALLAGHER ESTATES – LAND AT BIRD IN EYE SOUTH, FRAMFIELD ROAD, UCKFIELD, TN22 5HA
APPLICATION REFERENCE: WD/2006/3564/MAO**

APPLICATIONS FOR COSTS

1. I am directed by the Secretary of State to refer to the decision letter of 24 February 2009 notifying her decision on the appeals as listed above and summarised below:

- (a) **Downlands Farm:** made by Clarence Preston Will Trust and Barham Estates Ltd against the decision by Wealden District Council to refuse outline planning permission for residential development comprising approximately 750 dwellings; a neighbourhood centre with employment uses (Class B1); community hall, land for community uses and small retail facilities; a primary school; creation of new vehicular access from the A22 and emergency and bus only accesses from Snatts Road; construction of estate roads and new cycle and footway connections; provision of a managed country park with warden's lodge/information point and

education/interpretative facility; public and amenity open space, playing fields and associated development and changes of use; on land at Downlands Farm, Snatts Road, Uckfield in accordance with application reference WD/2006/2855/MEA dated 29 November 2006. This is referred to by the Inspector and the Secretary of State as Downlands.

- (b) **Bird in Eye North (BIEN):** made by Taylor Wimpey (UK) Ltd against the decision by Wealden District Council to refuse outline planning permission for mixed use development of land to provide at least 300 dwellings (including 30% affordable housing), 930 sq m of B1 business use, formal and informal open space, access roads and highways improvements including footpaths, landscape proposals and environmental enhancements; on land at Bird in Eye North, Framfield Road, Uckfield in accordance with application reference WD/2006/2173/MEA dated 24 July 2006. This is referred to by the Inspector and the Secretary of State as BIEN.
- (c) **Bird in Eye South (BIES):** made by Heron Land Developments, Persimmon Homes and Gallagher Estates against the decision by Wealden District Council to refuse outline planning permission for the erection of 197 dwellings, including affordable housing, with associated access, structural landscaping and recreational space (including 4 LAPS and one LEAP); on land at Bird in Eye South, Framfield Road, Uckfield in accordance with application reference WD/2006/3564/MAO dated 12 April 2007. This is referred to by the Inspector and the Secretary of State as BIES.

2. This letter deals with the application for an award of costs by Wealden District Council and East Sussex County Council against Clarence Preston Will Trust and Barham Estates Ltd (the Downlands appellants). The application was made at the inquiry held between 15 January and 18 July 2008 and which closed in writing on 14 October 2008, for a full award of costs in relation to the Downlands appeal; or for a partial award of costs in relation to the Downlands appeal in the second part of the inquiry (i.e. from the adjournment on 7 February 2008 to the inquiry close). The application as submitted and the appellants' response are recorded in the Inspector's costs report, a copy of which is enclosed.
3. In planning appeals, the parties are normally expected to meet their own expenses, and costs are awarded only on grounds of 'unreasonable behaviour' resulting in unnecessary expense. The application for costs has been considered in the light of the policy guidance in Circular 8/93, the Inspector's costs report, the parties' submissions on costs, the appeal papers and all the relevant circumstances.
4. The Inspector's conclusions are stated at paragraphs 3-8 of his costs report. He recommended that the application for an award of costs be refused.
5. Having considered all the available evidence, and having particular regard to Circular 8/93, the Secretary of State agrees with the Inspector's conclusions in his report and accepts his recommendation. Accordingly, she has decided that a full or partial award of costs against Clarence Preston Will Trust and Barham Estates Ltd, on grounds of 'unreasonable behaviour', is not justified in the particular circumstances. The application is therefore refused.

6. A copy of this letter has been sent to the Downlands appellants' agent.

Yours faithfully,

M. Stasiak

Maria Stasiak

Authorised by the Secretary of State to sign in that behalf