



Costs Decision

Site visit made on 13 May 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Costs application in relation to Appeal Ref: APP/M2270/W/20/3271087

- 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 Rob Marshall, The Wheelwright Arms at Matfield, for a full award of costs against Tunbridge Wells Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of the existing public house to 3 No. self-contained residential dwellings including a studio ancillary to Plot 3.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance ('the 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. For the appellant it is in essence claimed that on the issue of whether the loss of the pub could be justified, the Council gave too little regard to the viability report and failed to follow adopted policy in terms of reasoning.
4. I have acknowledged in my Decision that the viability report was in my view sufficiently persuasive in establishing non-viability. However, the process followed by the appellant was by no means flawless and could have been improved. The clearest example was that the marketing period was less than a year. However, there were also some other valid criticisms, albeit in my opinion more illustrative that the appellant had lost faith in selling the pub as a going concern as a result of the parlous finances rather than any significant technical or procedural failure to engage the market. That said, the Council was entitled to conclude that in its view the case for the pub not being viable had not been fully demonstrated, albeit that was not my overall finding.
5. As regards the interpretation of adopted policy, I agree that the Council made an error. But the officer's report did refer to different interpretations being possible and I can see why the structure and wording of Local Plan Policy CR13 has the potential to cause some confusion. An error in itself is not necessarily unreasonable behaviour.
6. On the issue of private open space, this is simply a matter of planning judgement. The curtilages of Units 2 and 3 would be small and there was a reasonable basis for considering them to be inadequate.

7. In summary, I am of the view that the decision to refuse the application is within the scope of planning judgement that can be regarded as reasonable, rather than falling within the overall thrust and examples of unreasonable behaviour in the PPG. I therefore conclude, on balance, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.
8. The application for an award of costs is therefore refused.

Martin Andrews

INSPECTOR