The Planning Inspectorate

Costs Decision

Site visit made on 6 July 2021

by A Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2021

Costs application in relation to Appeal Ref: APP/H1840/W/21/3271599
Land off Old Turnpike Road, Crowle, Worcestershire WR7 4AA

- 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 Richard Mead for a full award of costs against Wychavon District Council.
- The appeal was against the refusal of planning permission for the development of a live/work unit.

Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. It goes onto state that 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, for example by persisting in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable; by not determining similar cases in a consistent manner; or by making vague or generalised assertions about a proposal's impact.

3. The Inspector of the previous appeal[1] considered that the site had access to the facilities in Crowle. Officers also did not object to the location of the site. Whilst Members are of course able to reach their own decisions on the basis of the evidence before them, to refuse an application for a reason that was previously considered acceptable by an Inspector is unreasonable. The expense incurred by the applicant in defending this reason for refusal was therefore unnecessary.

4. The previous appeal decision focussed on the fact that the live/work units should be a single building. However, as explained in my decision on the appeal, the previous Inspector infers that that proposal would not be a Class B1 Use. The Members' view, therefore, that the proposal would be more akin to a Class B2 Use is not inconsistent with that appeal decision.

[1] APP/H1840/W/19/3230487

5. The Council have granted outline consent in the past for live/work units, but in the examples provided either the proposed use was clearly defined and found to be acceptable or the development was wholly speculative. In this case there is sufficient doubt that the proposed use would be acceptable. As such, in this regard also, the Council were not inconsistent in their decision making.

6. Although the applicant suggests that the Members' concerns that the proposal would cause harm to the amenity of neighbouring occupiers is unfounded, I consider that because of the uncertainty with regard to the proposed use, it was not unreasonable for Members to consider there could be harm to the amenity of neighbouring residents.

7. As such the Council did not prevent or delay development that should clearly be permitted. However, their second reason for refusal was unreasonable in light of the previous Inspector's decision. Therefore, the costs incurred by the appellant in contesting that reason for refusal was an unnecessary expense. Consequently, the application is allowed in part and a partial award of costs is justified.

Costs Order

8. 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 Wychavon District Council shall pay to Mr Richard Mead the costs of the appeal proceedings, more particularly described in the heading of this decision, limited to those incurred in contesting the second reason for refusal.

9. The appellant is now invited to submit to Wychavon District Council, to whom a copy of this decision has been sent, details of these costs with a view to reaching an 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 Costs Office is enclosed.

A Owen

INSPECTOR