
Costs Decision

Site visit made on 21 February 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Costs application in relation to Appeal Ref: APP/W1145/W/22/3304398 Stonechat Meadow, Winkleigh, EX19 8PR

- 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 M Baggs for a full award of costs against Torridge District Council.
 - The appeal was against the refusal of planning permission for change of use of existing caravan from incidental use to seasonal rural workers dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense.
3. The applicant submits that the Council's understanding of the lawfulness of the existing caravan is incorrect and does not take account of caselaw. Whilst this is certainly a matter that was covered by both main parties during the appeal process, I am not satisfied that it is a main issue of the appeal as the proposal sought to establish a new use for the existing caravan. It was not put forward as a retrospective proposal. The Council only mentions its understanding of the current status of the caravan briefly in its appeal statement and instead focusses largely on the justification for a rural worker to be on site through the tourism season, which is the main issue of the appeal. I therefore find that the Council did not act unreasonably in respect of this issue.
4. The applicant submits that it was unclear how the proposal was contrary to the Council's Rural Workers' Dwellings Supplementary Planning Document (SPD) 2020. I found the SPD to be of clear relevance to the main issue of the appeal, and, as I concluded that permanent on-site presence is not necessary for the enterprise to function properly, I could reasonably conclude that the proposal was contrary to the SPD.
5. Based on its position that the existing incidental use of the caravan is lawful the applicant is of the view that it was not necessary for the Council to consider whether a condition should be imposed that would require the caravan to be

¹ Planning Practice Guidance Paragraph 030 Reference ID: 16-030-20140306

removed from the site out of season. I note that the Council did not provide any evidence to rebut the appellant's suggestion that the caravan is in an incidental lawful use and would remain so outside of the tourism season. Therefore, its submissions relating to the suitability of a condition to secure its removal out of season, or in the event that the use should cease, are not based on a thorough exploration of the submitted evidence. I therefore find that the Council behaved unreasonably in this regard.

6. There is nothing before me that could cause me to conclude that the Council did not review the case promptly following the lodging of the appeal. It would appear to be the case that the Council did not consider that there would be any merit in discussing its position further, and that an appeal would be appropriate should the applicant wish to challenge the Council's refusal.
7. The applicant submits that the Council did not determine similar cases in a consistent manner. This is with regard to the case at Ruby Oak Park². Whilst it would appear to be the case that the addition of a small number of holiday lodges at the site was sufficient for the Council to allow a temporary live/work unit it is clear from the Council's report that the overall business operation at this site is much more substantial than that at the appeal site. I consider there to be few similarities between this decision and the appeal proposal, and therefore find that there is no evidence to suggest that the Council has not determined similar cases in a consistent manner.
8. I have found that the Council behaved unreasonably in respect of the two conditions it suggested that relate to the removal of the caravan. I also need to consider whether this unreasonable behaviour has resulted in unnecessary or wasted expense on the part of the applicant. The applicant has spent time and effort responding to the suggested conditions. Thus, a partial award of costs is justified.

Costs Order

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 Torridge District Council shall pay to Mr M Baggs, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the two conditions that the Council suggested that would have required the removal of the caravan; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Torridge District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

A Tucker

INSPECTOR

² Council Ref: 1/1416/2021/FUL