The Planning Inspectorate

Costs Decision

Site visit made on 27 January 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Costs application in relation to Appeal Ref: APP/M2840/W/22/3291512
Rockingham CL Caravan Park, Rockingham Road, Cottingham, Northamptonshire LE16 8XS

- 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 and Mrs Croash Robinson for a full award of costs against North Northamptonshire Council.
- The appeal was against the refusal of planning permission for conversion of existing stable to form a Live/Work unit; formation of an open-air menage; construction of a horse shelter; and additional on-site provision for glamping (up to 14 bell tents).

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process. Local planning authorities risk an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing applications or unreasonably defending appeals.

3. The PPG further makes it clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, but that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.

4. The applicants argue that the Council's decision contradicted its earlier pre-planning advice which was supportive of the proposal; that the Council failed to interpret its own policies correctly in respect of the proposed live-work unit, and failed take into account the proposed benefits of the scheme in the overall planning balance. It is also contended that the Council failed to follow its own procedures by not taking the application to a planning committee for decision.

5. The Council states that officers concluded at application stage that the proposal was not a live/work unit having considered the layout. It also points to the 2018 appeal decision, which considered Policy 13 to be relevant, as a material consideration. Its subsequent assessment was against this policy where it found a residential use to support the viability of the business on the site had not been demonstrated, and that the benefits of the proposal and support for rural businesses in the National Planning Policy Framework were taken into account. The Council adds that it did not consider the case finely balanced such

that a decision by the planning committee was warranted, and that the applicant was informed of its position prior to determination and afforded the opportunity to withdraw the application.

6. The Council's pre-planning response was that the proposal was in conformity with Policies 11 and 25 in terms of developing a rural business relating to leisure and tourism. The advice did not set out any doubt in respect of the live-work unit, nor make reference to Policy 13, but did include caveats with respect to enhancing green infrastructure, protecting landscape character and pedestrian connectivity and did not go into specifics in respect of any particular part of the scheme, being couched in general terms overall.

7. Although I note the approaches of the Inspectors in costs decisions referred to me by the applicants, it is necessary to consider the specific facts of each case. It was made clear in the penultimate paragraph of the Council's letter that the response was not binding. A decision on a subsequent application must take account of all relevant factors, including comments from consultees and interested parties and other material considerations, including the 2018 appeal decision in this case.

8. Still, I can understand that the Council's change in position on the live-work unit was a source of frustration for the applicants, and the Council certainly did not help itself by including erroneous references to 'design, scale and siting' of the live-work building as being the cause of harm in its reason for refusal, along with later unsubstantiated references to a 'loss of openness' and to a '50/50' floorspace requirement for live/work units.

9. However, from the submissions before me, I determined that the question of whether the proposal was a live/work unit was central to the appeal, in that it informed which development plan policies were applicable and what factors subsequently fell to be considered. Ultimately, this was a matter of judgment and, on the evidence before me, I found the proposal did not amount in substance to a live/work unit. Overall, I find the Council did sufficiently substantiate its position in respect of this main issue.

10. Moreover, although the appellant criticises the Council for not giving sufficient weight to the perceived benefits of the scheme, and though I have reached a different view on these, this is an exercise in planning judgement for the decision maker, and I do not find the Council's approach to be unreasonable in this respect.

11. The criticism of the Council's handling of the application is ultimately a matter for local government accountability. Although I understand the applicant's concern that a planning committee may have reached a different view, this is a speculative argument and the evidence before me does not clearly indicate a different decision would have been reached such that an appeal would have been avoided. As such, I do not find unreasonable behaviour in this respect.

Conclusion

12. For the reasons set out, I conclude that that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, no awards of costs is made.

K Savage INSPECTOR