

Costs Decision

Site visit made on 24 October 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th November 2017

**Costs application in relation to Appeal Ref: APP/W0340/W/17/3179787
Mortimer Police Station, Victoria Road, Mortimer Common, Reading
RG7 3XQ**

- 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 The Reading Gospel Hall Trust for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of planning permission for a change of use from part residential and part sui generis to part residential and part community use, and minor alterations.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the 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 in the appeal process.
3. The Plymouth Brethren Christian Church (the Brethren) conducts their meetings very early on Sunday mornings. However, this is the standard meeting time for congregations which are part of this particular group of churches. Anticipating that this matter would be of concern to neighbours, the Reading Gospel Hall Trust (the Trust) set out in its planning statement some of the reasons why it considered unacceptable noise and disturbance would not be caused.
4. However, after clarifying the times at which the meetings would take place, the Council remained concerned about the effects of noise and disturbance on neighbours on Sunday mornings. Therefore, even though the appellant provided additional evidence by way of a Noise Management Plan, gave examples of the operation of other Gospel Halls in Berkshire, and there was no objection from the environmental health officer, the Council refused the scheme on that basis.
5. In reaching its decision it seems that the Council gave significantly more weight to objections raised by local residents than the submissions of the appellant. This appears to be the case even though a number of those objections came from people who lived some distance from the site and would not have been directly affected by the proposal.

6. I accept that in residential areas the risk of excessive noise, for example from demolition or construction works, would be unacceptably harmful to the living conditions of neighbours, particularly in the early hours of Sunday mornings. Such risks can be mitigated by the imposition of conditions controlling the hours of operation. However, in my view the need to control noise nuisance from the use of a building by a small number of people as part of a short, quiet, reflective meeting, cannot be compared with the need to prevent excessive noise between 23.30 and 07.30hours from a range of other activities.
7. As part of the appeal process the Trust provided additional evidence, including the submission of a noise study which demonstrated that there would be no material harm to neighbours. Although there was no evidence that the environmental health officer had been given an opportunity to comment on this study, the Council did not contest its methodology or conclusions. In determining the appeal I therefore concluded that the proposal was acceptable having regard to all the available evidence and the specific aspects of the case.
8. The Council did not provide an appeal statement and did not respond to the appellant's statement of case, although it provided a list of potential conditions. However, it did set out how the case officer had liaised with the appellant prior to the decision in response to the application for costs. However, the statement largely repeated its view that the noise associated with the arrival and departure of vehicles would be unacceptable and that the measures the Trust was offering to mitigate potential noise nuisance would be ineffective.
9. Whilst the Council's behaviour and decision has led to the appellant being disappointed and frustrated, I am not persuaded that it behaved unreasonably. The outcome was a matter of planning judgement and the Council supported its decision with reasons. The appeal was therefore unavoidable. The Trust has incurred costs to present its case, but these were neither unnecessary nor wasted, as the appeal has led to the granting of planning permission.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

Sheila Holden

INSPECTOR