



## Costs Decision

Hearing held on 19 October 2023

Site visit made on 20 October 2023

**by E Brownless BA (Hons) Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 March 2024**

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### **Costs application in relation to Appeal Ref: APP/ Q0505/W/23/3325645 Jewish Synagogue, 3 Thompsons Lane, Cambridge, CB5 8AQ**

- 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 Trustees of the Cambridge University Jewish Society for a full award of costs against Cambridge City Council.
  - The appeal was against the refusal of planning permission for development described as 'Demolition of existing Synagogue and Jewish Community facility and erection of a new Synagogue and Jewish Community facility including replacement parking spaces and new cycle storage and associated works'.
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### **Decision**

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

### **The submissions for the Trustees of the Cambridge University Jewish Society**

2. The costs application was made orally at the hearing. The applicant contends that the respondent acted unreasonably in a number of ways. Firstly, that it was not justified in failing to follow the advice of its officers and give proper reasoning for doing so. Secondly, that it failed to identify the harm that would be caused. Thirdly, that the respondent omitted to take into account the benefits of the appeal scheme and undertake the necessary balancing exercise of the appeal scheme's benefits against the identified harm. Finally, that matters concerning the health and survival of the retained trees was capable of being remedied by way of a negatively worded Grampian planning condition.

### **The response by Cambridge City Council**

3. The respondent made oral submissions in response.
4. The respondent sets out that there was thorough discussion of the key issues by members of the planning committee. Members took a different view to the planning officer however, the decision was finely balanced and members were entitled to take a differing view on the evidence presented. Furthermore, that the harm caused was identified and is set out in the reasons for refusal. The benefits of the scheme were considered by members; they are set out in the officer report and members took the view that the harm was not outweighed by the benefits. The respondent's reasons for refusal make clear reference to the benefits of the scheme not outweighing the harm that would be caused.
5. Furthermore, that members of planning committee lacked confidence in the submitted tree evidence and were entitled to take a differing view from the respondent's tree officer.

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## Reasons

6. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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.
7. The application for costs is brought by the appellant on substantive grounds based upon the behaviour of the respondent's planning committee in determining the application.
8. Although the Council's officer recommendation in this instance was to grant planning permission, the local planning authority is not obliged to accept the recommendation of their officer and as such councillors were entitled to reach an alternative view on the main issues.
9. Whilst the applicant points to the grounds of refusal being unreasonable, I have had regard to those reasons for refusal and I have concluded that there would be a materially harmful effect on the outlook of neighbouring occupiers at Nos 25 and 26 Portugal Place. In addition, I have found that there is inadequate certainty regarding the impact of the proposed development upon the retained trees such that a precautionary approach is appropriate to safeguard their long-term health and survival. I have also determined that planning conditions would not provide a satisfactory solution in this instance and deemed that caution is necessary to ensure that character and appearance is not adversely affected to the detriment of the significance of the heritage asset.
10. The benefits of the appeal scheme were set out within the officer's report. Reference to the benefits of the scheme not outweighing the identified harm is cited within the reasons for refusal. The evidence before me leads me to the view that the respondent properly identified the harm and gave adequate reasoning for the decision. Even if the Council had erred in failing to conduct an appropriate balancing exercise, this would not have avoided the need for the appeal given my findings above.
11. Whilst I have taken a different view with regards to the design and scale of the proposed development, I find that the appeal with regard to the other main issues was unavoidable and wasted cost therefore cannot be substantiated.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*E Brownless*

INSPECTOR