



Costs Decision

Site visit made on 20 August 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Costs application in relation to Appeal Ref: APP/T2215/W/23/3333289 Alfan Lane Full Gospel Church, 1A Alfan Lane, Wilmington, Kent DA2 7HB

- 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 L Saromi for a partial award of costs against Dartford Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing disused and redundant gospel church (Class F1) and erection of a single dwelling (Class C3) with soft landscaping and parking provision.
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Decision

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

Reasons

2. 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.
3. Applications for costs are limited to those costs incurred during the appeal process. Therefore, the cost of preparing evidence to accompany the planning application are outside the scope of this application.
4. The PPG provides examples of unreasonable behaviour by local planning authorities, which include amongst other things preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and failure to produce evidence to substantiate reasons for refusal.
5. The appellant alleges that the Council acted unreasonably in a substantive sense, by refusing the application and pursuing all of the reasons for refusal despite evidence presented through the appeal process. More particularly, it is alleged that an insufficiently balanced approach was taken, with inadequate weight being given to benefits of the development and to the evidence of unsuccessful marketing of the site for community purposes. However, the appellant has accepted the Council's case that that matters of planning judgement, notably the design of the proposed dwelling, should not form part of the costs application.
6. In the Officer Report, reasons were given for the Council's finding that the marketing evidence was inadequate to address relevant requirements in the development plan. The Officer Report also included consideration of the

benefits of the proposal. The reference to housing targets being met was a relevant consideration when weighing up those benefits. There was limited consideration of the potential disbenefits of an alternative community use to nearby residents. However, representations highlighting those issues were acknowledged and accurately summarised in the Officer Report and therefore did form part of the Council's decision-making process.

7. Since the planning application did not clearly specify that the proposal was for self-build housing, the lack of reference to that particular benefit at the time of the Council's decision was not unreasonable.
8. While the proposed basement would be outside the Root Protection Area (RPA) of the protected trees, the proposal would include a deeper area of excavation within the RPA of tree T4 to accommodate the varied floor levels on the sloping site. On that basis, although the inaccurate reference to the basement was unhelpful, the reference in the third reason for refusal to harm to the roots of protected trees was valid. Having taken account of the arboricultural evidence from all parties, I have also concluded that there would be unacceptable below ground impacts on the protected trees. As such there is no clear evidence that this reason for refusal could have been overcome.
9. The Grounds of Appeal claimed that use of the building as a place of worship should be regarded as having been abandoned. However, the Planning Statement provided with the planning application had confirmed that the use had not been abandoned and the proposal was presented as a change of use from Class F1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). In response to the Grounds of Appeal, the Council provided clear reasoning why it was considered inappropriate for abandonment of the existing use to be introduced as an issue for consideration through the appeal process. On that basis, it was not unreasonable for the Council to continue defending the first reason for refusal.

Conclusion

10. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Jane Smith

INSPECTOR