



Costs Decision

Site visit made on 8 January 2025

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Costs application in relation to Appeal Ref: APP/G2245/W/24/3345734

The Old Meeting House, St. Johns Road, Sevenoaks, Kent TN13 3LR

- 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 Dr. Ejaz Ansari (Sevenoaks Masjid Centre) for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for change of use to a place of worship.
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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. In summary it is the applicant's contention that the Council's reasons for refusal were without foundation and so in effect the decision is considered to have delayed a development which should have been permitted. Consequently, this is an application for a full award of costs.
4. The decision to refuse the planning application was taken by the Council's Planning Committee contrary to the recommendation of its professional officers. The recommendation was for a temporary 18-month period. This was to allow the Council to review the mitigation measures and ensure there were no adverse effects on neighbours or the local road network from the use.
5. It was the right of the Planning Committee to make the decision that it did and refuse the planning application. The reasons for refusal refer to highway safety and the living conditions of neighbours. These were material planning considerations in this case, but the issue is whether the Committee's concerns were of sufficient merit for them to have reasonably refused the scheme.
6. Notwithstanding the mix of uses in the vicinity of the site, the Council's statement raises concerns regarding the use operating at less sociable hours, particularly early morning, and the impact this could have on the neighbouring residents. As can be seen from my substantive decision, I too have some concerns regarding noise and disturbance arising from the proposed use of the building, particularly late at night or early in the morning.

7. Whilst planning conditions could be used to control many of the activities within the building, noise and disturbance associated with people entering or leaving the site are less easy to control. Given that the evidence to support predicted numbers was limited, the scale of any impact was to some extent uncertain. This was an aspect of the scheme where technical evidence was not able to indicate that no harm could arise.
8. Furthermore, the noise assessment that was submitted was predicated in part on the appeal building not having open windows. It is not clear why the assessment adopts this approach. This obviously places a proactive requirement on the management of the building and proactive enforcement if there were complaints. The absence of definitive evidence that windows being open in the appeal building would lead to harmful noise emissions does not detract from it being a legitimate concern.
9. With regard to highway safety, the Highway Authority did not object to the scheme, but approval was only recommended for a temporary period to assess the likely impact on the surrounding area. The representations from local residents clearly demonstrated the current difficulties they face and the concerns that many of them have with the existing levels of traffic and parking. In light of the accounts from local residents and the qualified support from the Highway Authority it was not unreasonable for the Planning Committee to have misgivings about the highway safety implications of the scheme.
10. Given the above uncertainties, it was understandable that the officers were unclear whether the use would pose unacceptable impacts and so a trial run was thought necessary. However, this is a matter of planning judgement. That both myself and the planning officers considered a temporary permission could be an acceptable approach, does not mean that the Committee's concerns were invalid. Nor does it mean that there was insufficient basis to justify a refusal.
11. The concerns raised in the Committee's decision were specific to the scheme being presented, were appropriate given the evidence and cited relevant policies. There is no evidence to suggest that the decision was taken on anything other than planning grounds.
12. Any appeal is based on a difference of opinion and the position taken by the Council on appeal has been made out with sufficient detail and analysis. Accordingly, the decision was not an unreasonable one to make.
13. Consequently, I do not find that the Council prevented or delayed a development that should clearly have been permitted. As such, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Stewart Glassar

INSPECTOR