



Costs Decision

Site visit made on 4 February 2025

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2025

Costs application in relation to Appeal Ref: APP/K0235/W/24/3351327 Methodist Chapel, Bedford Road, Great Barford, Bedford MK44 3JJ.

- 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 A Vidler on behalf of Hammer Helping Heroes Charity for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for change of use of place of worship to Use Class E(a).
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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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
3. The applicant claims that the Council's unreasonable behaviour is substantive and relates to not permitting development in accordance the development plan and therefore preventing or delaying development; refusing planning permission on a ground capable of being dealt with by planning condition; not following case law; and refusing to enter into discussion, when a more helpful approach would probably have resulted in the appeal being avoided.
4. While the applicant considers that the change of use would fall within a community use and therefore Policy 99 of the Bedford Borough Local Plan 2030 and Policy CF1 of the Great Barford Neighbourhood Plan 2020 – 2030 (made on 19 January 2022) would not need to be applied, I disagree as outlined in my appeal decision. As such, the Council has not delayed or prevented development which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
5. With regard to the Council refusing planning permission on a planning ground capable of being dealt with by condition, I have found that a condition would not be appropriate for the reasons set out in the PPG¹. While the Council suggested that the application might have been assessed differently had the applicant proposed a method for restricting the proposed use to the applicant, this was not unreasonable.

¹ Paragraph 21a-015-20140306: Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?

6. In their final comments on costs, the applicant refers to submission of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure the site's community use. No such legal agreement has been provided.
7. Turning to the main issue on highway safety, it will be seen that from my appeal decision that it has not been adequately demonstrated that the proposal would not have a harmful effect on highway safety, with particular regard to parking and servicing. I have had regard to relevant case law in reaching that determination. Although the Council has not specifically referred to any case law, it is clear that they have considered the fallback position of the existing lawful use. This is not unreasonable.
8. In full, the last element of alleged unreasonable behaviour pertains to refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
9. The Council has confirmed that it offers a pre-application service which would have provided the Council with an opportunity to raise the concerns that they have expressed in their officer report, decision notice, and statement of case. The applicant disputes the quality of the pre-application service, but it is clear that they chose not to participate in pre-application discussions on this occasion.
10. The applicant attempted to contact the Council on several occasions during the application process. The Council confirmed in advance of its decision that the application was to be refused. The Council was not under an obligation to hold a meeting with the applicant during the application process. Given the extent of difference between the applicant and the Council with regard to the need for marketing, nothing before me indicates that a meeting would have resulted in the appeal being avoided or issues being narrowed.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Joanna Gilbert

INSPECTOR