
Costs Decision

Site visit made on 24 July 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 August 2025

Costs application in relation to Appeal Ref: APP/A2280/W/25/3363346 211 High Street, Chatham ME4 4EB

- 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 Wilson, Slots Trading Ltd for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for the change of use to arcade incorporating bingo (*sui generis*).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. The appellant submits that the Council has failed to produce evidence to substantiate each reason for refusal on appeal; made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and prevented the development when it should have been permitted.
4. Whilst I can understand the appellant's frustration with the Council's overall handling of the scheme, the delegated report sets out an appropriate analysis of the indicated harm in respect of the vitality and viability of the town centre, and how the change of use would conflict with relevant adopted planning policies. Moreover, the reason for the refusal in the decision notice is complete, specific and relevant to the application. It clearly states the policies of the Development Plan with which the proposal would be in conflict, and I am of the view that the Council has interpreted them correctly. Although I have come to a different conclusion on the merits of the proposal, I have seen no sufficiently compelling evidence of unreasonable behaviour in this regard. The relevance of certain elements of the Chatham Design Code are not entirely clear, nevertheless I am aware that 1.3 refers to "the urban regeneration of Medway's primary centre" and 3.3.6 has been recognised as a simple drafting error, for which the appellant has not been put to any unnecessary expense.
5. Assessing the impact of a development on a town centre is to some degree inevitably subjective, and it is not surprising that the appellant is able to point to

other examples of changes of use elsewhere in the country. However, to this end I have no evidence that the Council's approach is unreasonable. It was for the appellant to provide the evidence they felt necessary to support their case; I do not consider the Council was obliged to seek more or to take advice on the matter.

6. Therefore, I do not consider that the Council failed to properly evaluate the application at that time. The appellant concedes that there is no definition of over-concentration within the Development Plan; to my mind concerns over the resultant impacts on vitality and viability were issues of judgement that officers were entitled to make, and I am satisfied were reasonable objections about the impact of the proposed development which warranted the decision.
7. In respect of living conditions, the Council's position is less convincing. The Authority has primarily relied upon the delegated report for the case, which in itself need not be unreasonable provided there is sufficient justification for the objection. However, I note that there are no supporting comments from Environmental Health, and Kent Police raise no concerns. The resultant assessment is sparse with no specific reasoning.
8. Moreover, I have sympathy with the appellant that the Council would not engage in proactive correspondence in this respect. The Authority's no-discussion-unless-pre-application-advice-has-been-taken approach is extremely unhelpful, and to my mind runs contrary to a system that seeks to work proactively with applicants. The suggestion of a condition to restrict opening times is inadequately explained or justified, and furthermore runs contrary to the proposed 24-hour use. There is no indication that a noise management scheme has been considered as a pragmatic alternative.
9. In summary therefore, whilst it is reasonable for the Council to apply judgement, this must be supported by proper analysis. Instead, assertions were made about the effects of the appeal scheme in terms of living conditions that could not be supported. This has led the applicants to incur unnecessary and wasted expense dealing with this matter on appeal, albeit to a modest extent. As a result, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and a partial award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Medway Council shall pay to Wilson Slots Trading Ltd the costs of the appeal proceedings described in the heading of this decision but limited to those costs incurred in responding to Reason 2 of the Authority's decision only. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Hall

INSPECTOR