
Costs Decision

Site visit made on 16 November 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Costs application in relation to Appeal Ref: APP/B4215/W/21/3279029 1 Mitford Road, Manchester M14 6UL

- 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 Mohammed Akram against the decision of Manchester City Council.
 - The appeal was against the refusal of planning permission for the erection of a new detached residence, on a plot in the rear garden of 1 Mitford Road.
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Decision

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

Procedural Matter

2. The applicant has applied for an award of costs but has not specified whether the application is for a full or partial award. I have therefore reached my decision having considered both options.

Reasons

3. Irrespective of the outcome of an appeal, the National Planning Practice Guidance, (PPG), advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
4. In summary, the applicant highlights aspects of the PPG relating to when an award of costs may be made against a local planning authority. Unreasonably refusing an application, unreasonably defending appeals, preventing or delaying development which should clearly have been permitted, not determining cases in a consistent manner, and failing to grant permission for a scheme that is the subject of an extant scheme or recently expired permission, are examples of behaviour that may be deemed to be unreasonable.
5. The applicant contends that the current proposal is near identical to a scheme approved in 2013, under planning permission Ref 102424/FO/2013/S1, (PP102424). Additionally, the applicant refers to

the evidence submitted with the appeal, which includes references to opinions expressed in the Council Officer Report for the 2013 application that differ to the views expressed in the Council Officer Report and the Council's Decision Notice related to the current proposal. It is also asserted that there have been no material changes to any circumstances which justifies refusal of the current proposal. The applicant therefore contends that the Council has behaved unreasonably, and that such behaviour has resulted in wasted expense in the appeal process.

6. The Council's response to the above is, in summary, as follows: Planning is a dynamic process that can evolve to reflect changes in guidance and legislation. The Council accept that policies in its Core Strategy (CS) remain the same as they were when PP102424 was determined. However, the Council suggest that the CS was a relatively new document, published shortly after the publication of the first National Planning Policy Framework, (the Framework). There have been several changes to the Framework since PP102424 was determined in 2013, and it is suggested that interpretation of CS policies has evolved in light of such changes. The evidence indicates that the Council did seek to engage with the appellant prior to determining the application, but there was little communication between the parties. The Council therefore considers that it behaved reasonably throughout the application process.
7. Although the applicant accepts that interpretation and application of the CS policies may have evolved to reflect changes in the Framework, he considers that the Council should have referred specifically to any changes in the Framework that resulted in them reaching a different decision to the one it reached in 2013.
8. I accept the opinion of the applicant that the Council did not provide detail in the Council Officer Report, (OR), of how changes in the Framework had resulted in it reaching a different decision to that it reached 2013. I also accept the applicant's contention in the appeal documentation that the OR related to the current scheme only refers to a pre application enquiry related to the site, and not the planning application submitted and approved in 2013. Nevertheless, PP102424 is not an extant or recently expired permission, it is 8 years since determination of the application and there have been changes in national policies and guidance, as noted in my Appeal Decision, which do impact on the decision-taking on planning applications. Suffice for me to note that such changes have undoubtedly increased the emphasis on high quality design in the planning process.
9. I accept that changes in policy and guidance related to design do not account for the Council reaching different conclusions on the current scheme regarding living conditions to those it reached in 2013. However, I am not able to account for the Council in this regard. With regards to my decision on the appeal, as noted in my Appeal Decision, given cannot PP102424 cannot now be implemented, I attach little weight to it.
10. For the reasons outlined above, although I consider the Council has not provided a detailed account of its reasoning in refusing application Ref 128380/FO/2020, I believe the Council did not behave unreasonably in doing so. I therefore conclude that it has not been demonstrated that the

Council behaved unreasonably in respect of any substantive or procedural matters associated with the determination of application Ref 128380/FO/2020. Consequently, there has not been any unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. I therefore conclude that neither a full nor partial award of costs is not justified.

J Williamson

INSPECTOR