



Costs Application on Behalf of Mr Kevin Short against the refusal of planning permission by Manchester City Council for the erection of a detached garden room at 23 Lakenheath Close, Manchester

Introduction

This statement should be read in conjunction with the statement of case, the forms as part of an appeal against the refusal of planning permission by Manchester City Council for the erection of a detached garden room.

Site History

The appeal application is a resubmission of application 129819/FH/2021 which was also for a detached garden room. That proposal measured 5.0 m in width, by 2.4m in depth and was to a height of 2.3m above ground level.

The previous application was refused on the 21st May 2021 for the following reason: “ *The proposed outbuilding by reason of its scale, bulk, massing, size, design would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Didsbury St. James Conservation Area, which would also have an overbearing appearance to neighbouring occupiers to the detriment of visual amenity and as such is contrary to saved policies DC1.1, DC1.2, DC1.3, and DC1.4 and DC18 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.*”

Appeal Application

The appeal application was a resubmission measuring 3.66M in width x 2.03M in depth x 2.100M High above ground level. The application was supported by a personal statement as to why the garden room was necessary.

It was refused for the following reason: “ *The proposed outbuilding by reason of its scale, bulk, massing, size, design would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Didsbury St. James Conservation Area, which would also have an overbearing appearance to neighbouring occupiers to the detriment of visual amenity and as such is contrary to saved policies DC1.1, DC1.2, DC1.3, and DC1.4 and DC18 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.*”

Costs Claim

Procedural Point

Manchester City Council, do not comply with Regulation 7 of the Openness of Local Government Bodies Regulations 2014 [SI 2014 No. 2095]. These regulations were made under sections 40 and 43(2) of the Local Audit and Accountability Act 2014.

Regulation 7 [Recording of decisions] provides that the decision-making officer must produce a written record of any decision if it would otherwise have been taken by the relevant local government body [which includes councils that are local planning authorities], or by a committee or sub-committee of that body, or a joint committee in which that body participates, but it has been delegated to an officer of that body either under a specific express authorisation, or under a general authorisation to officers to take such decisions.

In *Shasha v. Westminster City Council* [2016] EWHC 3283 (Admin), the Deputy Judge held that there was an obligation on the decision-making officer in this case to produce a record of the decision to grant planning permission and the reasons for it as soon as practicable after the decision-making officer made the decision. This should be made available to the public via the portal. Manchester City Council do not do this.

The householder appeal process only allows the Council to submit its case officer report. The appellant is required to produce a full statement of case which addresses all the reasons for refusal. However, there is no case officer's report on the Council's portal. As such the appellant, in submitting these grounds of appeal, is unable to see and understand what specific reasons the case officer took into account in determining the appeal application, and what specific details were found to be unacceptable, in relation to the street scene, the Conservation Area, and to the neighbour's residential amenity. In addition there is also no public record of how the differences in the two applications were assessed.

This amounts to unreasonable behaviour as it is clearly contrary to established case law and legislation

As such once the Council send their case officer's report it will be necessary for the appellant to submit a rebuttal addressing those issues currently unknown.

The appellant has therefore been put to unnecessary extra costs in making this appeal both in terms of the initial submission but also in being required to address the case officer's report once the Council send it to the Inspectorate and onto the appellant.