The Planning Inspectorate

Costs Decision

Site visit made on 7 January 2013

by John L Gray DipArch MSc Registered Architect

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 January 2013

Costs application in relation to Appeal Ref. APP/B4215/A/12/2184363
32-34 Wilson Street, Manchester, M13 9EX

- 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 Human Appeal International for a full award of costs against Manchester City Council.
- The appeal was against the refusal of an application for planning permission for the change of use from vacant public house to D1 use.

Decision: the application for an award of costs is refused.

Reasons

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.

2. The officer report on the application states "that the composition of the application site has changed since committee considered [the] previous application". It goes on to explain the changes and what the application premises now relate to. The matter at issue is actually whether the intensity of the use would be reduced because the site was limited to the building itself. That is a matter of judgement. The demand for the use does not reduce because the site is smaller. The question to be answered is what, potentially, would be the effect of seeking, or having, to cater for that existing level of demand. That has implications for noise generated externally as well as internally. The Council did not act unreasonably in the way it dealt with this matter.

3. It cannot be said that the Council's highways concerns are not supported by the highway authority. The officer report notes the comment by the Head of Highway Services that "The applicant should clarify the size of the congregation". Had that been done, it would have been possible to assess whether there was or was not an objection. It was not essential for the Council to seek evidence from the highway authority if it felt that its concern could be cogently expressed as an objection. Nor, if there was felt to be planning merit in the objections by others, was it wrong of the Council to rely upon them. In addition, the effect of traffic and parking relates to amenity as well as highway safety. The evidence provided by the Council on this matter was adequate for its stance not to be considered unreasonable.

4. It may be that the proposal responds to the needs of the community and complies with Core Strategy policy in that respect. That is not necessarily,

however, a compelling argument. The proposal must also comply with more specific policy provisions relating to the nature of the use and the nature and location of the building in which it would be provided. That, too, is a matter of judgement and the way in which the Council has assessed the merits of the proposal cannot be considered unreasonable.

5. To sum up, the Council did not behave unreasonably in refusing the application for planning permission and, at appeal, has provided evidence adequate to substantiate its decision. Accordingly, the Council's actions have not caused the appellant to incur unnecessary or wasted expense in the appeal process.

John L Gray

Inspector