



Costs Decision

Site visit made on 15 October 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2024

Costs application in relation to Appeal Ref: APP/B4215/W/24/3343958 80 Braemar Road, Manchester M14 6PG

- 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 J O'Hara for a full award of costs against Manchester City Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use of dwelling to small house in multiple occupation (Use Class C4).
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Decision

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

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 process.
3. The applicant has indicated that the Council has acted unreasonably which has led to unnecessary or wasted expense in relation to substantive matters.
4. The applicant submits that the Council: prevented and delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; and gave vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. Although I have disagreed with the Council and allowed the appeal, my decision makes it clear that the proposal does not accord with Policy H11 of the Manchester Local Development Framework Core Strategy Development Plan Document 2012. The Council was therefore not behaving unreasonably in preventing development which should clearly have been permitted in accordance with the development plan.
6. However, an assessment of the proposed development also needs to consider other material considerations, including relevant appeal decisions concerning similar proposals.
7. Whilst both parties gave examples of appeal decisions relating to HMOs in Manchester to support their respective cases, in this instance an appeal had been allowed concerning a very similar proposal at 78 Braemar Road (No 78), the next door property, with identical reasons for refusal and where similar

concerns regarding the impact on neighbouring occupiers and the loss of family housing were considered.

8. In a carefully reasoned decision, the Inspector in that appeal explained that as the character of the area was already informed by such a high concentration of HMOs, they were not persuaded that the proposal for an additional HMO would have any significant adverse effects on the character of the area, sustainability of communities or amenity of neighbouring residents. That appeal decision was, because of its direct parallels and close proximity, clearly relevant to the consideration of the proposal at 80 Braemar Road (No 80).
9. The Council does not specifically refer to the appeal decision at No 78 within its Officer Report. I appreciate that the Council's submissions refer to other appeals in the area concerning changes of use to HMOs which were dismissed. However, those appeals involved areas where the concentrations of HMOs were lower, which were in different parts of the city or where the property had not been marketed for a length of time. Therefore, they were not directly comparable in the same way as the appeal at No 78.
10. As the nature, policy issues and context of the proposals at Nos 78 and 80 are basically the same, it is not reasonable for the Council to fail to give any substantive reasons for reaching a different view from the Inspector in that appeal. There was no meaningful attempt made to explain how any material differences between the proposal and a clearly relevant allowed appeal decision very close by is sufficient to justify a different outcome, and no convincing explanation for the departure from the appeal decision at No 78. Therefore, I consider that the Council has behaved unreasonably, by preventing development that should have been permitted having regard to the material considerations.
11. I note the applicant's concern in that they consider that the Council did not substantiate their reasons for refusal and gave vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
12. However, it is clear from the evidence presented to me that the main parties have sought to substantiate their cases. In this respect the Council has not been unreasonable. Nonetheless, the Council has prevented a development that should have been permitted having regard to material considerations. As such, the applicant has found it necessary to go through the appeal process and this has resulted in unnecessary and wasted expense.
13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

14. 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 Manchester City Council shall pay to Mr J O'Hara the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Manchester City 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.

L C Hughes

INSPECTOR