



Costs Decision

Site visit made on 23 June 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th August 2020

Costs application in relation to Appeal Ref: APP/B4215/W/20/3249266 Land bounded by Julia Street, Charter Street, Newcombe Street, Francis Street, Manchester

- 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 Ghulam Haider of Millennium Car Parks Limited for a full award of costs against Manchester City Council.
 - The appeal was against the grant subject to conditions of planning permission for *"change of use to create temporary car park to a period of 12 months including installation of pay machine and associated boundary treatment"*.
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Decision

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

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that it has imposed a condition that is both unnecessary and unreasonable, provided only vague, generalised and inaccurate assertions about the proposal's impact, and has failed to produce evidence to substantiate the condition at appeal.
4. Whilst the appeal site is within a designated employment area, the Council accept the principle of a temporary car park as a 'meanwhile use' prior to longer-term development proposals coming forward. In this regard, the appeal site is located within the area covered by the Great Ducie Street Strategic Regeneration Framework ('SRF'), which envisages the redevelopment of a large swath of land close to the city centre over a period of around twenty years.
5. In its justification for limiting the consent to 12 months, the Council state that *"it is anticipated that the changing dynamics within the area is imminent"*. However, little supporting evidence or information has been provided to substantiate this assertion. In particular, no explanation is provided as to why this part of the Southall Street Character Area is expected to be developed in the short term, when the SRF identifies it as being a longer term phase of development. Nor is any reference made to emerging proposals or developer interest in this area. Instead, the Council has provided only vague and generalised assertions in relation to these matters, that are not supported by any detailed analysis or evidence. Moreover, the SRF identifies the appeal site

- as being suitable for a 6-10 storey scheme, which is unlikely to be developed in advance of neighbouring sites coming forward given its lack of prominence.
6. Similarly, it is asserted that the appeal site "*is considered to be intrinsic to enabling these changes*" to the area. However, the SRF does not identify the appeal site as being of particular importance to its delivery, and given its size and location, this seems unlikely. No further information is provided to substantiate this point.
 7. The Council also state that a 12-month consent would allow it to re-evaluate and re-assess what is appropriate at the site in a shorter time period. However, there is no basis within either the SRF or the other evidence before me for limiting the consent in this way.
 8. The Council also imposed a number of other conditions that must be discharged prior to the first use of the site as a car park. The time required to discharge these conditions and to implement the scheme would reduce the actual period of use to significantly below the permitted 12 months. The disputed condition is therefore likely to significantly alter the viability of the proposal. Whilst it is asserted that details relating to drainage, boundary treatments, and security measures could have been provided upfront, the original application was for a 5 year consent which would have allowed sufficient time to address these matters. From the information before me, it also appears that the appellant was only informed that a more limited 12 month consent would be granted shortly before the application was determined.
 9. In light of the above, I consider that the Council has clearly acted in unreasonably in restricting the temporary consent to only 12 months. In doing so, it has imposed a condition that is both unnecessary and unreasonable. Had it acted otherwise then the appeal could have been avoided.

Conclusion

10. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

11. 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 Ghulam Haider of Millennium Car Parks Limited, 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.
12. Mr Ghulam Haider of Millennium Car Parks Limited 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.

Thomas Hatfield

INSPECTOR