



Costs Decision

Site visit made on 12 December 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2024

Costs application in relation to Appeal Ref: APP/B4215/W/23/3325061 10 Ellesmere Road, Manchester M21 0SR

- 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 Mrs Tahira Akram for a full award of costs against Manchester City Council.
 - The appeal was against the refusal of planning permission for the conversion of the basement of the property from storage area to form a one bedroom apartment, with new window openings to front and rear elevations to serve the proposed apartment and formation of a sunken terrace on the rear elevation to provide a dedicated amenity space for the new apartment. Construction of a bicycle store in the rear garden and alterations to form 3 No. off road parking spaces to the front elevation, and the provision of an EV charging point.
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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. Examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.
4. The applicant says that the Council was inconsistent in its decision making by reference to a development for eight apartments that was permitted at 398 Wilbraham Road, specifically regarding the provision of on-site parking.
5. I have concluded differently to the Council in my Appeal Decision regarding the elements of the first reason for refusal relating to noise and disturbance and the mix of house types in the area. Nonetheless, the intensification of occupation and associated activities are valid considerations and are matters that are relevant to any assessment of the effect of the proposal on living conditions. I am satisfied that its concerns were sufficiently reasoned and that the cumulative effects arising from the addition of an apartment are matters that are reflected in the adopted policy and the Council's report. In respect of such concerns, a substantive and reasonable case based on relevant planning

considerations was put forward by the Council and, as such, I find no unreasonable behaviour by the Council in this respect. Its position was a legitimate exercise of planning judgement.

6. Part of the Council's case is that the lack of parking within the appeal site would lead to increased competition for on-street parking spaces in an area where there is a high demand for such spaces. The Council defended their decision by reference to relevant policies and guidance and to the representations received from local residents. However, it has not produced any specific evidence to support its conclusion that a loss of amenity to those living nearby would arise in the absence of the provision of on site parking. Furthermore, it has not provided any evidence to counter that set out by the applicant in the Transport Statement and parking survey which seeks to demonstrate that there is some on-street parking capacity on Ellesmere Road and nearby.
7. The applicant claims that the Council has been inconsistent in the approach taken in respect of parking provision at the appeal site to the approach it took in an application at 398 Wilbraham Road (No 398) for the conversion to eight apartments. In response, the Council has indicated that the impact that developments have on parking within the immediate vicinity is assessed on a case-by-case basis.
8. The Council has accepted that both sites are in accessible locations, and I note that, as they are close together, access to alternative modes of transport than the private car is comparable. Nonetheless, despite such similarities, no objective analysis has been set out by the Council to justify why its requirement for on-site parking differs so greatly between the appeal proposal and that at No 398.
9. Consequently, I find that the Council has not determined similar cases in a consistent manner and has failed to produce evidence to substantiate the second reason for refusal.
10. For the above reasons I do not find that the application for a full award of costs is justified. Nevertheless, I find that some unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A partial award of costs is therefore justified relating to the second reason for refusal.

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 Mrs Tahira Akram, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the second reason for refusal with regard to parking; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Manchester, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Elaine Moulton INSPECTOR