The Planning Inspectorate

Costs Decision

Site visit made on 23 January 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 3 February 2017

Costs application in relation to Appeal Ref: APP/B4215/W/16/3160904
21-23 Clyde Road, Manchester M20 2NJ

- 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 Sandileaf Ltd for a full award of costs against Manchester City Council.
- The appeal was against the refusal of planning permission for conversion of existing basements to provide 2no. 2 bedroom dwellings, formalised car parking area, provision of cycle shelter, bin storage and new amenity areas.

Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters such as 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. Other substantive matters include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and failure to produce evidence to substantiate each reason for refusal on appeal. In addition, refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.

4. The application for costs relates to the substantive matter listed above. The reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. The reason for refusal clearly identifies what the Council considers to be harmful and states the policies of Manchester's Local Development Framework Core Strategy and The Manchester Plan, the Unitary Development Plan for the City of Manchester, together with the guidance in the Guide to Development in Manchester SPD, which the proposal would be in conflict. The Council's evidence includes an officer report and statement of case which seek to substantiate the reason for refusal.

5. Notwithstanding the above, it will be seen from my appeal decision that I conclude that the development would not be harmful. In terms of the matter of noise and disturbance, including its relationship to the character and appearance of the site and the intensity of use of the building, the evidence provided by the applicant in the form of an acoustic report as part of the statement of case informed my conclusions. In contrast, the Council's decision was based upon an assessment of information submitted as part of the original application, which did not include the acoustic report.

6. The Council has provided justification for taking a different view to the consultation response from an Environmental Protection officer in making their decision and maintaining concerns regarding noise and disturbance during the appeal despite the submission of the acoustic report. The Council assessment of noise and disturbance is based on the potential change in overall occupancy of the building, whereas the acoustic report reflects a different assessment of external activity based upon the percentage increase in number of units. Such matters reflect reasonable differences of opinion. Whilst, the absence of evidence from the Council to support their view is decisive on the outcome of the appeal, my assessment of the differences of opinion and weight attributed to the applicant's evidence remains a matter of judgement. Therefore, in the particular circumstances of this case, it does not follow that the Council behaved unreasonably or caused unnecessary or wasted expense for the applicant in the appeal process as a result.

7. Further to the above, the Council's concerns relate specifically to noise and disturbance generated by general activities that would take place outside of the property. If I had found harm relating to such matters, having regard to the National Planning Policy Framework and the PPG with respect to the use of conditions, I am not satisfied that the issue could have otherwise been addressed by a condition.

8. Turning to the matter of private amenity space, as the Council has no quantifiable standards for provision, the views of both parties also reflect a reasonable difference of opinion. I will be seen from my appeal decision that I agree with the applicant that the provision of amenity space would meet the needs of existing and future residents of the development as proposed. However, this is a matter of judgement based on the particular circumstances of the site and its surroundings. Consequently, I cannot conclude that the Council behaved unreasonably in taking a different view or caused unnecessary or wasted expense in the appeal process as a result.

9. A condition could have been imposed to overcome the issue of additional capacity for the storage of bins. This view reflects my conclusion that the possible loss of grassed areas proposed to the side of Nos. 19 and 21-23 Clyde Road if required for additional storage, would not be harmful to the provision of amenity space. Nevertheless, given the Council's wider concerns expressed, I do not consider that it behaved unreasonably by including such matters in the reason for refusal.

10. Taking all of the above into account, I cannot conclude that it has been demonstrated that the Council behaved unreasonably or caused unnecessary or wasted expense for the applicant in the appeal process as a result.

Conclusion

11. For the reasons given above, I determine that the costs application should fail and no award is made.

Gareth Wildgoose

INSPECTOR