
Costs Decision

Site visit made on 11 April 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 17 May 2017

Costs application in relation to Appeal Ref: APP/B4215/W/16/3165982 Unit 6 Monsall Mill, Monsall Road, Manchester, M40 8NQ

- 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 Revegate Ltd. for a full award of costs against Manchester City Council.
 - The appeal was against the refusal of the Council to grant planning permission for conversion of vacant unit to place of worship without complying with a condition attached to planning permission Ref. 107779/FO/2015/N1 (APP/B4215/W/15/3010077, dated 27 August 2015).
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Decision

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

Reasons

2. The appellant's costs application and the Council's response were submitted in writing.
3. The *Planning Practice Guidance* (PPG) 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.
4. In summary, the appellant argues that the Council's behaviour was unreasonable, with reference to the PPG. Particular reference is made to a failure to co-operate with the appellant, citing: a lack of communication with the appellant during the period between the submission and the determination of the application; and, its refusal to give the appellant additional time to commission and submit a further noise assessment in relation to weekday evenings, before the application was determined. Furthermore, with reference to the PPG, the appellant considers that the Council has failed to produce evidence to substantiate its reason for refusal and has refused planning permission on grounds capable of being dealt with by condition. It considers that this unreasonable behaviour has led to an appeal which could have been avoided and the appellant incurring otherwise unnecessary expense in the appeal process.
5. However, in support of its appeal the appellant has submitted a Noise Assessment Report, which includes information concerning weekday evenings¹.

¹ Blue Tree Acoustics *Noise Assessment Report* Doc. Ref. 02831-250200.

Having had regard to that report, the Council has maintained its objection to the appeal proposal, based in part on the continued opposition of its Neighbourhood Officer-Environmental Protection (NOEP), whose reasons include a number of identified shortcomings in the information received. I consider it is unlikely therefore, that further communication between the parties during the application process concerning the adequacy of the initial noise assessment report² and the provision of additional time to submit the second noise assessment would have resulted in the Council granting planning permission, thereby avoiding the need for an appeal. Therefore, in my view, the Council's conduct during the application process in relation to these matters does not amount to unreasonable behaviour that has resulted in the appellant incurring otherwise unnecessary or wasted expense.

6. In addition to the reliance placed on the view of its NOEP, other evidence submitted by the Council to substantiate its reason for refusal includes reference to the objection of a local councillor and the reported experiences of a number of local residents.
7. My conclusion, on the basis of the evidence presented, differs from that of the Council. I have found in my appeal decision that, on balance, it would be appropriate to grant planning permission in this case, subject to conditions. However, this is a matter of judgement and, in my view, the evidence provided by the Council provides a respectable basis for its stance.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

I Jenkins

INSPECTOR

² Blue Tree Acoustics *Noise Assessment Report* Doc. Ref. 02831-250100.