
Costs Decision

Inquiry held 4 - 7 July 2017

Site visit made on 6 July 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 30 August 2017

Costs application in relation to Appeals Reference:

APP/B4215/W/16/3163305 (Appeal A) and APP/B4215/W/17/3168121 (Appeal B)

Irvin Drive, Manchester M22 5LR

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Peter Ashley Carparks Limited for a partial award of costs against Manchester City Council.
 - The inquiry was in connection with appeals against the refusal of planning permission originally described as Appeal A: Car Storage Structure and Use of Site to Provide Airport Car Parking Incorporating Block Car Parking (for purposes of meet & greet) and Park & Ride Car Parking and Appeal B: erection of a 4 storey multi-storey car park to provide off-airport car parking facilities for 2244 cars with associated landscaping (resubmission of planning application 112323/FO/2016/S2).
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Decision

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

Procedural matters

2. The application for an award of costs was submitted in writing on 5 July 2017¹. The application is for a partial award of costs relating to the preparation of evidence relating to noise. The Council provided a written response² at the Inquiry on 7 July 2017 to which the applicant replied. The following additional points were made orally by the applicant. The applicant's Acoustics Report contains two propositions; firstly that 45 dB L_{Amax} is unreasonable where the site is already affected by such a degree, that the additional noise would not make a difference to the properties and that whilst the period affected is 3 hours, people need more than 3 hours sleep. Secondly, if the EHO did not accept the 45dB L_{Amax} point, then the site could be managed to obviate such need and the means of control are available to the Council. In respect of the 25 metre zone, this was not an issue for the EHO as evidenced in the proof of Mr Bassett, where the EHO expressed that he is satisfied with the proposal.

Reasons

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

¹ Inquiry Document 8

² Inquiry Document 9

unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

4. The PPG Paragraph: 049³ advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably defending appeals. Examples of this includes, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and 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.
5. Whilst not providing its own technical noise assessments, the Council's objections were addressed directly to the technical evidence provided by the applicant.
6. The applicant put forward for each appeal a scheme that the identified parking spaces within 25 metres of dwellings on Irvin Drive, to be secured by planning conditions, would not be used at night to ensure that sound experienced at the dwellings from the development would not exceed the WHO Guidelines. A 25 metre zone was not identified for the scheme in Appeal A when the Council determined the application but was provided during the appeal. In respect of the scheme in Appeal B, the applicant put forward in the October 2016 Hepworth Acoustics report that there should be no vehicle movements within spaces within 25 metres of properties on Irvin Drive and provided a plan showing the intended area.
7. Whilst the Council's EHO had commented on the proposals, the Council's concerns related to the effectiveness of the proposed 25 metre zones as a means to safeguard the living conditions of nearby residents. Pertinent questions were asked by the Council of Mr Bassett, in this regard.
8. I have found that taking into consideration the technical assessments, the oral evidence at the inquiry by Mr Bassett and having had regard to the comments made by the Council's EHO, that the restriction of the use of parking spaces proposed within 25 metres of the dwellings on Irvin Drive, subject to planning conditions, should ensure that the WHO guideline figure would not be exceeded by noise arising from the development for nearby residents. I have found the WHO Guidelines appropriate for use in these appeals. Nevertheless, whilst I do not agree with the Council in this regard, I consider that the Council had a reasonable case for questioning the technical basis of the proposed 25 metre zones.
9. I therefore conclude for the reasons set out above that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Philip Lewis

INSPECTOR

³ Reference ID: 16-049-20140306