



Costs Decision

Site visit made on 20 August 2019

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 13th September 2019

Costs application in relation to Appeal Ref: APP/B4215/W/19/3229095 98 Wilmslow Road, Manchester, M14 5AL

- 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 Shahid Ali for a full award of costs against Manchester City Council.
 - The appeal was against a refusal to grant planning permission without complying with conditions subject to which a previous planning permission was granted.
-

Decision

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

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 relation to each of its reasons for refusal. In addition, it is submitted that the Council failed to communicate with the appellant when doing so could have avoided the appeal altogether.
4. The appellant contends that the first reason for refusal is based on a misunderstanding that could have been resolved had the Council sought further clarification or amended drawings in relation to the forecourt area. This matter was subsequently resolved at appeal stage by the submission of revised drawings. However, the original drawings are ambiguous, and it would have been necessary to address this matter in any event. It is therefore not clear that any unnecessary or wasted expense has been incurred in this regard.
5. In terms of the second reason for refusal, I have concluded that insufficient information has been provided in relation to this matter. Accordingly, the Council did not act unreasonably in refusing permission on these grounds. Moreover, the condition suggested by the appellant appears to significantly overlap with Condition 11 to permission Ref 118025/FO/2017, and it is unclear from the information before me whether that condition has been discharged.
6. It is contended that the third reason for refusal could have been avoided had the Council sought to explore alternative designs with the appellant. However, the appellant sought to argue that the fence was visually appropriate in their Grounds of Appeal. Whilst this matter was subsequently resolved by the

removal of the fence via an amended drawing, the appellant presented that as a fallback option in the event that I were to conclude otherwise. Given the Council's concerns, it would have been necessary to submit a substantially revised plan in any event. It is therefore unclear that any unnecessary or wasted expense has been incurred in this regard. In terms of the effect of the fence on the Grandale Street/Wilmslow Road junction, I accept that visibility would not be unacceptably impaired. However, only a very short section of the appellant's Grounds of Appeal is given over to addressing that matter.

7. With regards to the fourth reason for refusal, the appellant states that the Council has failed to address the submitted Noise Impact Assessment. However, that document does not address the concerns raised by the Council's Environmental Health section, which relate to noise arising from customers loitering outside or leaving via the surrounding streets. Moreover, for the reasons set out in my Decision, I do not consider the scheme at No 72 Wilmslow Road to be directly comparable to the current appeal proposal.
8. Finally, it is contended that the Council failed to engage with the appellant at application stage or seek further clarifications. However, PPG is clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, and not for the period during the determination of the planning application¹. In any case, given the extent of the Council's objections to the proposal it is not clear that an appeal could have been avoided. The Council therefore did not prevent or delay development which should clearly have been permitted.
9. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR

¹ Paragraph: 033 Reference ID: 16-033-20140306