



Costs Decision

Site visit made on 27 April 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Costs application in relation to Appeal Ref: APP/B4215/W/20/3263284 Flat 4, Clifton Avenue, Manchester M14 6UD

- 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 Janice Gilmartin for a full award of costs against Manchester City Council.
 - The appeal was against the refusal of planning permission for the insertion of six velux type windows to the front roof slope (which will allow internal alterations to be undertaken to flat 4 to be changed from one studio flat into a two bedroom flat).
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Local planning authorities are at risk of an award of costs against them where there is evidence of 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. The applicant's claim is that the Council failed to give appropriate weight to the consideration of similar appeal decisions, failed to substantiate its reason for refusal and, has failed to achieve consistency of decision making.
4. The Council's decision refers to saved Policy DC5 of the Unitary Development Plan. This is a criteria-based policy that, amongst other things, recognises some potential key aspects that can arise from the sub-division of buildings to form flats. The majority of these relate to the potential effects of intensification of the use of individual buildings and the character of the areas in which they are located.
5. The Council's report identifies that the proposed development would be instrumental in providing an increased level of accommodation within the building. It correctly addresses the subject areas within saved Policy DC5 and the associated effects on amenity referred to in Policy DM1 of the Manchester Core Strategy. Their concerns are detailed in the report and summarised in the Council's Decision Notice. The legitimate concerns reflect those expressed by third parties living in the vicinity of the site and with regard to its planning history.

6. Notwithstanding that an earlier decision (106747/FO/2013/S1) relating to the site was overturned at appeal, the Council's approach and decision was consistent with the earlier decision, albeit the circumstances were different.
7. In support of the appeal the appellant referred to that appeal decision, one relating to the adjoining property and one elsewhere. However, as indicated within those decisions, intensification of occupation and associated activities are valid considerations and are matters entitled to some weight in assessing the effects on neighbouring amenity. Notwithstanding my own finding, there are legitimate grounds, which are reflected in the adopted policy and the Council's report, in respect of cumulative effects. This would include those which could arise from incremental 'creep' towards increasing levels of occupation of buildings and higher residential densities.
8. It seems to me that the previous appeal decision was not directly comparable as it would have resulted in a lesser cumulative effect than that indicated by the combined total of the existing and proposed accommodation that I have considered. Furthermore, although other decisions may be a material consideration they are not, in themselves, determinative. It is a well-established principle that each case must be considered on its own merits and with regard to the particular circumstances of the case.
9. Accordingly, I find that the Council was entitled to consider the incremental effects of increasing the number of bedrooms within the appeal site and exercise its planning judgement in so doing. Its concerns were duly highlighted and supported by evidence of nearby neighbours. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR