
Costs Decision

Site visit made on 29 June 2021 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2021

Costs application in relation to Appeal Ref: APP/B4215/W/21/3272610 9 Bellfield Close, Blackley, Manchester M9 8QA

- 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 Darren Smith for a full award of costs against Manchester City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the erection of a single storey detached garage.
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Decision

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

Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, 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.
4. The PPG makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
5. It is evident that the planning application was before the Council for a considerable time and there were delays in providing feedback on the Council's concerns with the proposal, and from procedural issues such as the need for further advertisement of the application. Nonetheless, although the nature of the communication between the parties is disputed, there was clearly some level of engagement throughout the application process, and the applicant was consequently able to submit further information to support their proposal. As such, a degree of delay was not unreasonable, and an extension of time to determine the application was sought to allow for this.

6. That extended target passed without the application being determined, however. While correspondence between the parties continued, it took several months and significant effort on the applicant's part for the Council to advise of the full reasons why permission would not be granted. In particular, the issue of character and appearance was not raised until very late in the application process, after the applicant had indicated their intention to appeal. It is unclear from the submissions why it took such a long period to provide this information.
7. Consequently, I find that there were no substantive reasons to justify delaying the determination and that better communication with the applicant could have at least narrowed the issues to be considered at appeal. This was unreasonable behaviour on the part of the Council.
8. Nevertheless, the evidence before me is that the Council would have refused the application on the grounds of harm to character and appearance of the area, and the applicant was made aware of this. Although I have reached a different conclusion on this issue, this was a matter of planning judgement. The Council's objections were supported with substantive reasons based on the assessment of the site and its surroundings, and interpretation of relevant development plan policies. I therefore find that the Council substantiated its case on character and appearance and find no unreasonable behaviour in this respect. An appeal may therefore still have been lodged on this issue alone and therefore I do not agree that the appeal as a whole was unnecessary.
9. However, the second part of the Council's refusal related to parking and access. Having been advised of the Council's concerns in this regard, the applicant submitted further information regarding the nature of the shared hardstanding and the existing parking arrangements. It is not evident from the submissions that the Council had regard to this further information. Indeed, in its putative reason for refusal the Council persisted with a position that the proposal would affect a communal parking area in the face of evidence to the contrary.
10. This position was then carried through to the appeal, and there is little to demonstrate that the Council reviewed their case at appeal stage. Its Statement restates the content of the officer report, and the specific comments on the applicant's Grounds of Appeal do not address these points. Consequently, the Council did not substantiate its case in respect of parking and access, having regard to all of the information available to it. This was unreasonable behaviour.
11. Parking and access are, however, matters which I would have had to consider in order to make a recommendation on the appeal, given the comments from the Highway Authority and the siting of the proposal at the end of a shared area of hardstanding. Therefore, the applicant would have needed to submit evidence on these matters at any appeal. Consequently, no unnecessary expense has been incurred in having to submit evidence in this respect.
12. The applicant suggests that the delay has resulted in additional development costs, however there is no compelling evidence before me of this, particularly as the applicant has commenced construction on site.

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and recommend that the application for costs be refused.

H Ellison

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

L McKay

INSPECTOR