
Costs Decision

Site visit made on 29 June 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2021

Costs application in relation to Appeal Ref: APP/B4215/C/21/3267419 19 Devon Avenue, Manchester M19 2JH

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Manchester City Council for a partial award of costs against Mr Nasir Iqbal.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of a front porch and canopy and a single storey extension at side and rear.
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Decision

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

Reasons

2. The application is for a partial award of costs against the appellant. The Planning Practice Guidance 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 Council submits that procedurally the appellant acted unreasonably by introducing grounds (c) and (d) at a late stage in the appeal proceedings. In addition, the Council do not consider that the appellant provided any evidence to support his appeal on ground (g), which they consider to be unreasonable.
4. Grounds (c) and (d) were introduced during the appeal proceedings and prior to the exchange of final statements. Whilst I appreciate that the Council were close to finalising their Statement of Case at that point, the appellant did seek to clarify the terms of the notice with the Council prior to introducing those late grounds.
5. I recognise that the late introduction of those grounds did result in a delay in the appeal proceedings. However, in this case it was the Planning Inspectorate's decision to re-start the appeal to clarify the procedure for all parties and ensure that each party had an opportunity to consider and respond to all the grounds pleaded. Moreover, the appellant had a right of appeal on those grounds. Despite the proceedings being slightly delayed, I have not been provided with any substantive evidence that the late introduction of grounds (c) and (d) resulted in unnecessary or wasted expense to the Council in the appeal process.
6. It will be seen from my decision that the appeal succeeded on grounds (c) and (d), to the extent that they were pleaded. I conclude that the appellant in this

case did not act unreasonably in reviewing his case in the preparation of his final statement and the appeal on grounds (c) and (d) could not have been avoided.

7. In relation to ground (g), the appellant set out clearly why he considered that it would be difficult to comply with the terms of the notice within the required timescale. Although no specific evidence on the availability of tradesmen was provided, the effects of the COVID-19 pandemic are widely known. The appellant should not have been expected to attempt to engage tradesmen prior to receiving the outcome of his appeal. It can be seen from my decision that I agreed with the appellant and considered that a longer time period would be more reasonable in this instance. I am satisfied the ground (g) was adequately supported and the appeal on this ground could have not be avoided.
8. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Elizabeth Pleasant

INSPECTOR