
Costs Decision

Site visit made on 20 August 2021

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2021

Costs application in relation to Appeal Ref: APP/B4215/W/21/3275906 15-19 Cranbourne Road, Chorlton Cum Hardy, Manchester, M21 8AP

- 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 Chapel Properties for a full award of costs against Manchester City Council.
 - The appeal was against the refusal of an application for planning permission for the erection of a 3 storey rear extension to 17 and 19 Cranbourne Road, installation of lightwells to front and rear of 15, 17, 19 Cranbourne Road together with associated elevational alterations in order to create 2 additional self-contained flats (8 flats in total), erection of bike and binstore and creation of 3 car parking spaces.
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Decision

1. The application for the award of costs is allowed in the terms set out below.

Reasons

2. The Government's 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. Costs may be awarded on procedural failings or on substantive grounds.
3. Whilst not entirely clear, I have considered the applicant's application for costs on both procedural grounds and substantive grounds.
4. The essence of the application is that in the view of the applicant, the Council prevented a development which should clearly have been permitted, having regard to the National Planning Policy Framework, the Development Plan and the Council's own SPD on parking. The Council, it is alleged, failed to produce evidence to substantiate each reason for refusal at appeal. In terms of procedural matters, it is claimed that the Council failed to cooperate during the application process despite the applicant submitting revised plans and assessments.
5. Of particular relevance is that had the Council been prepared to negotiate during the application process, the issue of the fall-back position could have been discussed and the weight attached to that consideration might have positively influenced the Council's decision in favour of the proposal. However, the Council remained silent on this issue.

6. The Council on the other hand believed it had negotiated in good faith and amendments were submitted based on discussions between the parties. Had negotiations taken place prior to the submission of the application, many of the issues could have been addressed and respective positions clarified. The coinciding of Covid-19 restrictions placed an undue burden on the Council, which meant that delays and changing internal procedures affected the processing of this and other planning applications.
7. From my assessment of the evidence, the Council had been pro-active in seeking improvements to the application submission but these still met with objection on a number of counts that included opposition from the local highway authority being maintained. Delays often occur in Development Management for a variety of reasons but there are processes available to applicants, including the right to lodge an appeal against non-determination. Although engaging in pre-application discussions is often helpful, it is not a statutory requirement.
8. However, the Council has in my view misinterpreted its own parking standards. Policy DC5.3 is particularly pertinent. When coupled with any reasonable application of the Council's SPD guidance, the appeal scheme has achieved and bettered the recommended standards. Moreover, the Council was silent on the fall-back position that would in essence have generated a potentially greater parking requirement than what is proposed in the appeal scheme. It also failed to properly grapple with the location of the site, which in my view is highly sustainable and where a more nuanced and flexible approach would have been reasonable. With the provision of ample bike storage facilities, it is difficult to understand the Council's position with respect to its parking demands here.
9. As a result, I conclude that the Council's refusal has not been adequately substantiated and the Council has ignored a genuine fall-back position and sought to apply a higher parking requirement than what its SPD would demand. For these reasons, I conclude that its behaviour is unreasonable in the terms of the PPG. Thus, I conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process only has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Manchester City Council shall pay to Chapel Properties, the costs of the appeal proceedings described in the heading to this decision.
11. The applicant is now invited to submit to Manchester City Council, to whom a copy of this decision has been sent, details of the costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance notes on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Gareth W Thomas

INSPECTOR