
Costs Decision

Site visit made on 26 January 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Costs application in relation to Appeal Ref: APP/B4215/C/21/3284746 Land at 130 Wilmslow Road, Manchester M14 5AH

- 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 full award of costs against Mr Saheeb Hussain.
 - The appeal was against an enforcement notice alleging breach of condition 13 on planning permission reference 120947/FO/2018.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG is clear that there is a right of appeal, and this is expressly reiterated in respect of enforcement notices. It continues by saying that the parties in appeals are normally expected to meet their own expenses. The PPG says costs may be awarded where a party has behaved unreasonably and it says unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues and examples are given.
4. The Council's application for costs relates to substantive matters and is made on the basis that the appeal follows a recent appeal decision in respect of the same development on the same site where an Inspector previously decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
5. I acknowledge the Council's case however, in this appeal the appellant attempted to address the identified harm through the submission of proposals supported by Noise Impact and Odour Assessments. In this respect the appeal is different to that previously considered.
6. As is evident from my decision, it is not open to me to consider the merits of an alternative scheme/s in an appeal against this type of enforcement notice. Nevertheless, and whilst I acknowledge the appellant was professionally represented, I am not certain that they appreciated this.

7. The appellant sought to exercise his right of appeal to protect his interest in the land and made a case. Although I concluded that the appeal should not succeed, it is not unreasonable for the appellant to have pursued an appeal in the context of their statutory right of appeal. It follows that I do not consider that the appellant acted unreasonably in making the appeal.

Conclusion

8. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Felicity Thompson

INSPECTOR