



Costs Decision

Site visit made on 7 October 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

**Costs application in relation to Appeal Ref: APP/Q4245/W/22/3299133
City Point and 2 Hornby Road, 701 Chester Road, Stretford, Manchester
M32 0RW**

- 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 Kamal Pankhania of Acre Manchester Ltd for a full award of costs against Trafford Metropolitan Borough Council.
 - The appeal was against a refusal to grant planning permission for the demolition of existing office building and erection of 169 bed hotel, comprising between 4 and 10 storeys of hotel accommodation and ancillary uses including ground floor café, plus basement with pool and gym and screened rooftop plant area and tower feature. Associated parking and service areas with main vehicular access of Hornby Road and associated changes to the public realm. Use of No. 2 Hornby Road for hotel staff.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an 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.
3. The applicant's case for a full award of costs is made on substantive grounds. The applicant alleges that the Council's refusal is not well founded and relies on vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis. The Council's decision was contrary to positive pre-application advice that the appellant had received and was also contrary to the recommendations of Council Officers. The applicant also considers that the Council has persisted in objecting to the scheme or elements of it that an Inspector had previously indicated to be acceptable.
4. The applicant considers that the proposal was in accordance with both local and national policies and so should have been approved without delay. As a consequence, the applicant alleges that the Council has behaved unreasonably leading to the unnecessary and wasted expense of submitting the appeal.
5. The PPG makes it clear that a local planning authority will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal or by 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.
6. The Council's decision notice clearly and unambiguously sets out three reasons for refusing planning permission, with reference to specific policies contained within the

Trafford Local Plan Core Strategy 2012. As part of the appeal proceedings the Council submitted a statement of case to support, and amplify, its reasons for refusal. I have also been provided with minutes of the Council's Planning and Development Management Committee where members discussed and ultimately decided against the proposal.

7. It can be seen from my decision that I agree with the Council in relation to the effect of the proposal on the living conditions of adjacent occupiers and in relation to matters of highway safety and parking. As such, there were sufficient grounds to refuse consent on this basis. Therefore, I am satisfied that the Council was able to substantiate these reasons for refusal.
8. Turning to the Council's considerations in relation to the effect of the proposal on the character and appearance of the surrounding area, this issue is a matter of planning judgement and is to a large extent a subjective matter. Whilst I have agreed with the applicant's conclusions in this regard, the substantive reasoning for why the Council considers the proposal to be harmful is set out in its statement of case. Whilst the applicant may not agree with the Council's conclusions, this does not mean that the Council acted unreasonably in its assessment of the proposal.
9. As part of a previous appeal¹ for a hotel development on the site, an Inspector found no harm to the character and appearance of the surrounding area as a result of the scale and design of the proposed building. However, the scheme before me in this appeal is substantially different in design and so it was not a foregone conclusion that the Council ought to have found this to be acceptable, a fresh assessment was required.
10. Pre-application discussions appear to have been productive and resulted in support for the proposal at an early stage. Both the PPG and the National Planning Policy Framework emphasise the value of pre-application discussions. Nevertheless, informal pre-application advice issued before the submission of a planning application is given without prejudice and cannot pre-determine the outcome of any subsequent application, which must be subject to the full statutory process. Therefore, such advice is not binding on any future decision the Council may make². Whilst it is disappointing that the Council's pre-application advice did not reflect its final determination, this does not amount to unreasonable behaviour.
11. Furthermore, in refusing planning permission, members of the Council's Planning Committee were entitled not to accept the professional recommendation of their Officers so long as a robust case could be made for a contrary view.
12. Accordingly, I cannot agree that the Council acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

13. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and therefore an award of costs is not justified.

J M Tweddle

INSPECTOR

¹ Appeal ref: APP/Q4245/W/20/3251903

² PPG Paragraph: 011 Reference ID: 20-011-20140306