



Costs Decision

Site visit made on 23 August 2023

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 04/09/2023

Costs application in relation to Appeal Ref: APP/B4215/C/22/3312428 13 Olney Avenue, Manchester M22 8AB

- The application is made under the Town and Country Planning Act 1990 (the 1990 Act), 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 Mohammed Sharif.
 - The appeal was against an enforcement notice alleging the erection of extensions.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 PPG advises that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when, for example, the development is clearly not in accordance with the development plan; or the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.
4. The Council submits that the appellant has acted unreasonably through pursuing the appeal despite a previous Inspector's decisions¹ and detailed advice from the Council. It is further argued that insufficient evidence was provided in support of the grounds of appeal pursued. Furthermore, it is maintained that a lack of engagement on behalf of the appellant and his representatives has caused the Council to incur wasted or unnecessary expense. The appellant counters that he is within his rights to pursue the appeal.
5. In relation to the ground (a) appeal, I accept that the recent appeal decisions considered very similar development to that enforced against and there is no evidence that circumstances have changed since the appeals were determined that would justify a different decision. However, I have powers under Section 177(1)(a) of the 1990 Act to grant planning permission in respect of matters

¹ Ref APP/B4215/D/20/3258882 and APP/B4215/D/20/3264718.

stated in the enforcement notice as constituting the breach of planning control, whether in relation to the whole or part of those matters. Consequently, it was within my powers to grant permission for part of the unauthorised works. It cannot be said that the ground of appeal had no reasonable prospect of succeeding as I may have found certain elements of the unauthorised development to be acceptable.

6. The ground (c) appeal was made on the basis that previous planning permissions had been granted that equated to the development under construction. This ground of appeal failed but in reaching my conclusions, I applied the relevant legislation and judicial authorities. As such, it was not necessarily correct that the ground of appeal was bound to fail from the outset.
7. The appeals on grounds (f) and (g) succeeded in part and, therefore, it cannot be concluded that those appeals had no reasonable prospect of success.
8. Although the Council considers there has been a lack of engagement, it is apparent that there was an element of dialogue between the Council and the appellant. This may not have been as successful as the Council would have wished, but I am satisfied that the appellant did attempt to engage with the process.
9. Overall, there is insufficient evidence that the appellant has behaved unreasonably. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Moore

Inspector