Planning Inspectorate

Costs Decision

Site visit made on 4 and 5 February 2025

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 APRIL 2025

Costs application in relation to Appeal Ref: APP/B4215/C/24/3347933
Land at 101 Manchester Road, Chorlton, Manchester M21 9GA

- 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 for costs is made by Manchester City Council Limited for a full award of costs against Chorlton Takeaway Sales
- The appeal was against an enforcement notice alleging is without planning permission, the installation of a shop front and external roller shutters.

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 applicant (hereafter referred to as the Council) has indicated that the appellant acted unreasonably by proceeding with a ground (c) appeal case that has no prospect of succeeding. It is indicated that the appellant was aware that the development alleged in the Notice had occurred and was a breach of planning control. However, the appellant did not substantiate their reasons for appealing on the ground (c) and proceeded when it had no prospect of succeeding.

4. The matters raised regarding elements of the allegation being lawful could have impacted upon the validity of the Notice, and whether it could be corrected or varied without causing injustice. In this respect, although I acknowledge that the appellant’s case on the ground (c) was not successful, this is not the same as it has no prospect of succeeding at all. Furthermore, although not specifically part of the ground (c) appeal, the Notice did include an error, which was highlighted by the appellant in their submissions. The error made the Notice defective, but I was able to correct it without causing injustice. However, if it had been the case that I was not able to correct the Notice, then it could have potentially resulted in the Notice being quashed as part of the appeal submissions.

5. Accordingly, notwithstanding my accompanying decision, in my judgement, the appellants’ pursuance of the appeal on the validity of the Notice and under ground (c) was not, in my judgement, unreasonable behaviour that resulted in any unnecessary or wasted costs as part of the appeal process.

6. The Council also raised issue with the failings of the appellant during the appeal process to submit the Statement of Case by the deadline. Specifically, the Statement of Case had been submitted to the Planning Inspectorate, but due to an administrative error on the appeal reference, it was not allocated to the correct appeal. The appellants' Statement of Case was accepted as late evidence, requiring the Council to respond after the appeal deadlines, which they indicate was unnecessary or wasted expense in the appeal process.

7. I acknowledge the Council's frustrations concerning the late Statement of Case, and more time being taken up by corresponding to the parties and producing final comments on the appellants' submissions. However, the delay was an administrative error, and the Statement of Case was relatively brief and did not include substantial new or technical information. The Council was also given more time to respond to the late document without any undue delay to the appeal process. As such, even if additional time and expenses were incurred, in my judgement, the appellants' actions fall short of what I would regard as unreasonable behaviour in this instance.

<u>Conclusion</u>

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M. P. Howell

INSPECTOR