



Costs Decision

Site visit made on 19 January 2026

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2026

Costs application in relation to Appeal Ref. APP/G4240/W/25/3375517

84 Ashton Road, Denton, Manchester M34 3JF

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Leanne Fishwick of Roots Alliance Ltd for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for: *The proposed development involves the change of use of an existing three-bedroom residential dwelling (C3 use) to a children's care home (C2 use). The property will provide care and accommodation for up to 2 children aged 7-17 years old who require support in a home-like environment.*
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Decision

1. The application for a full award of costs is refused.

Reasons for the decision

2. The Government's Planning Practice Guidance (the Guidance) advises that all parties in appeals are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. This application for costs has been considered on its merits in the light of the costs advice found within the Guidance, the appeal papers, the costs correspondence and all the relevant circumstances relating to the planning application and the appeal. The parties are also referred to my appeal decision.
4. The costs application seeks a substantive award against the local planning authority. The substantive case made includes some of the topics that appear in paragraph 049 of the Guidance in the main section headed *Behaviour that may lead to an award of costs against appeal parties*.
5. The applicant submits that the Council has behaved unreasonably by: (a) preventing or delaying development which should clearly be permitted, having regard to the development plan, national policy and other material considerations; (b) refusing planning permission on a planning ground capable of being dealt with by conditions; (c) acting contrary to, or not following, well-established case law and planning principles; (d) not determining similar cases in a consistent manner; (e) failure to determine the appeal on its individual merits; (f) failing to substantiate reasons for refusal with objective evidence; (g) late introduction of objections; (h) relying on non-planning considerations and failing to act transparently; and (i) unnecessary and wasted expense incurred in good faith.

6. Whilst the Highway Authority and the Environmental Health Department did not object to the application, the Council had to be satisfied as to whether the living conditions for the occupiers of the proposed children's care home, particularly the children to be cared for, would be adequate with particular reference to outlook and access to light in bedrooms 2 and 3 and the quality of the outdoor space.
7. This was central to the appeal case and it required a planning judgement to be made on a site specific basis, as had happened with the other decisions made by the Council or on appeal that I was referred to. Even though, as a matter of fact and degree and on balance, I reached a different view to the Council on this key matter, it was not unreasonable for the Council to take the approach it did and the officer's report and the decision notice substantiated its position adequately with reference to the development plan, supplementary planning guidance and the National Planning Policy Framework. The Council did not apply its judgement in an erratic or unreasonable manner.
8. The Council was aware of the scenarios put forward in mitigation that could have, in theory, been covered by planning conditions. However, from the Council's standpoint the scenarios did nothing to address the alleged poor quality of the rear yard and one of the scenarios would have left a child in one of the rear bedrooms that the Council objected to. So, the Council could not devise suitable conditions to enable the proposed development to go ahead.
9. Insofar as well-established case law and planning principles are concerned, I am satisfied that although the Council touched on the potential characteristics of the future occupants in some areas of the delegated report, the main focus therein and in the decision notice itself was on the physical elements of the building and the site that the Council found to be inappropriate for the use.
10. The Council's statement of case engages with only one of the other schemes permitted by the Council (71 Lodge Lane) and highlighted by the applicant. Whilst in that case, a bedroom fell marginally below the minimum space standard, it does not follow the Council should have shown arguably greater flexibility on entirely different matters of amenity. The Council's delegated report referred to the case at 34a Church Street and in particular to the less enclosed nature of that site. The case at 19 Holly Street involved an application for a lawful development certificate for a children's care home with 1 child and 2 carers. That home was not therefore almost identical and the planning merits are not considered in such cases. At 10 Queens Road, there was a small yard but no suggestion that outlook or light would be potentially substandard. At 22 Boundary Street, Burnley the appeal concerned a solo placement and turned on the effects on the living conditions of neighbours.
11. No glaring inconsistency therefore emerges. In general terms, the Council's reason for refusing planning permission did not lack logic, substance or objectivity and the Council dealt appropriately with the scheme on its individual merits. The initial independent daylight investigation undertaken by AKT Surveyors was not available to the Council at the application stage. The Council could not be criticised for relying more on the departure from its supplementary planning guidance and in any event that investigation did not cover outlook or rear garden space.
12. The Council's main concerns were raised in an email before the final response of the Highway Authority was received in relation to the submitted parking survey and the revised determination date. In strict terms, the Council's objections were not

made late and I am satisfied from what I have read that the concerns raised would have led to the refusal of the application regardless of the input of the Children's Services section of the Council. That said, whilst Children's Services are not a statutory consultee, they had sufficient involvement in the application to justify being listed in the Consultations section of the delegated report, just as they were at 34a Church Street. The fact that their comments were omitted is regrettable in my view in terms of planning practice, but this does not amount to unreasonable behaviour in itself. Whether or not a home would meet the legal requirements for planning would be formally determined by the local planning authority in the first instance. I don't read into the email of 14 October 2025 from Children's Services that planning compliance had been accepted by the local planning authority. The more subjective non-planning preferences of Children's Services did not therefore drive the decision the Council took.

13. I realise that the parking survey that was requested by the Highway Authority could not have influenced the specific reasons why the application was eventually refused. Still, without such a survey there would, in all probability, have been a highway safety/parking reason for refusal. It is highly likely that such a survey would have been required to address that refusal reason on any appeal. The expense incurred in arranging for the parking survey to be carried out was not therefore an unnecessary or wasted one.
14. Thus, the applicant has not clearly demonstrated unreasonable behaviour in respect of points (a) to (i) inclusive as set out in paragraph 5 above.
15. On a point of clarification, I understand that before submitting the application, the applicant used the duty planning officer service rather than the more formal pre-application service. Either way nothing turns on this point. Any pre-application advice received is non-binding. In any event, the formal written costs application did not specifically allege any unreasonable behaviour at this stage of the process.
16. The Council's approach to the available facts did not fully match any of the types of behaviour listed in the Guidance that may give rise to a substantive award against a local planning authority.
17. This application for costs falls short of demonstrating that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has occurred. An award of costs is not therefore justified.

Andrew Dale

INSPECTOR