Planning Inspectorate

Costs Decisions

Hearing held on 8 September 2026

Site visit made on 8 September 2026

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2026

Costs applications in relation to:
Appeal A Ref: APP/B4215/X/26/3378566
Appeal B Ref: APP/B4215/X/26/3378567
Basement Car Park, 15 Dyche Street, Manchester, M4 4DS

Costs Application 1:

- The application is made by Manchester City Council for a full award of costs against Brickpaper Limited (in liquidation).

Costs Application 2:

- The application is made by Northern Angel Management Company Limited for a full or partial award of costs against Brickpaper Limited (in liquidation).

- The applications are made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The Hearing was in connection with appeals against the refusal of certificates of lawful use or development for Use of basement car park at Northern Angel, Dyche Street by both residents and non-residents (Appeal A) and Use of basement car park by non-residents (up to 39 spaces) (Appeal B).

Costs Application 1

Decision

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

The submissions for Manchester City Council

2. The Council says the appellant's original evidence appraised the use of the car park by non-residents in general terms. It failed to appraise usage on a space-by space basis, as required by case law, despite inviting the Inspector to specify an alternative number of spaces that could be lawfully used by non-residents.

3. This resulted in the investigative burden being shifted to the Council, which has required a considerable time commitment that would not have been required had the appellant presented their case properly.

4. It says the introduction of a table on the day of the Hearing, purportedly summarising the use of the appellant's parking spaces, was analogous to the presentation of fresh, substantial evidence at a late stage and was thus unreasonable.

5. The appellant's stance regarding interpretation of conditions, was contrary to case law, and ignored the reason for the condition and the operative part of the

permission for a residential building. This resulted in unnecessary time and costs spent in defending the appeal.

6. The decision to progress both appeals, and thus the pursuit of contradictory positions, was also unreasonable.

Reasons

7. 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.

8. It is a matter for the appellant, as to the nature of the lawful development they seek to certify and the evidence they submit in support of this. That they failed to adopt the approach to analysis in *St Anselm*[1], was found to be incorrect. However, this does not equate to unreasonable behaviour.

9. As set out in the main decision, S.191(4) of the Act allows the local planning authority or Secretary of State to modify the terms of the application, giving a certificate in somewhat different terms so as to accord with the facts and evidence, rather than an outright refusal. It follows there was nothing unreasonable in inviting the Inspector to specify an alternative number of spaces that could be used lawfully.

10. I am not persuaded the Council has been faced with an investigative burden that would not have arisen if the appellant had undertaken its own space-by-space analysis from the outset. The reason for this is that it could still reasonably be expected the Council would have wanted to thoroughly check any such analysis in the summary table, by reference to the 'parent' data, whenever submitted. I agree, this has been a time consuming and granular exercise, but is more reflective of the inherent nature and scale of the project.

11. I concur with the view that the appellant's summary table submitted at the Hearing was not 'fresh' evidence, but rather sought to summarise information that had previously been available to the parties to investigate pro-actively had they chosen to, for a long time. Indeed, if the Council accepted the approach to analysis in *St Anselm*, it could have investigated the information accordingly, before determining the application. In any event, the Council were allowed time to make any written representations on this information after the Hearing had taken place.

12. I do not agree that the appellant's stance regarding the interpretation of condition 8 was at odds with case law, as reflected in the main decision. However, even if this had been the case, the relevant case law is complex, and I am not persuaded their stance would have come close to any threshold for unreasonable behaviour.

13. Finally, it is not unusual or unreasonable for appeal arguments to be made in the alternative.

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

[1] *R (oao St Anselm Development Co Ltd) v FSS & Westminster CC [2003] EWHC 1592 (Admin).*

Costs Application 2

Decision

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

The submissions for Northern Angel Management Company (NAMC)

16. NAMC claim the appellant's applications were misconceived from the outset, and were never capable of being approved in the form in which they were made. The appellant's primary case that condition 8 does not prohibit the use of spaces by non-residents is a wholly untenable interpretation.

17. The appellant ought to have realised that the *St Anselm* case was wholly adverse to their case, and it should thus have adopted a space-by-space approach to analysis much earlier.

18. It says the late production and reliance on a new schedule at the Hearing was also unreasonable conduct, causing additional wasted or unnecessary expense.

19. The Council was not in a position to establish the accuracy of entries because the evidence provided was unreliable.

Reasons

20. I do not agree that the appellant's stance regarding the interpretation of condition 8 was at odds with case law and untenable, as reflected in the main decision. However, even if this had been the case, the relevant case law is complex, and I am not persuaded their stance would have come close to any threshold for unreasonable behaviour.

21. It is a matter for the appellant, as to the nature of the lawful development they seek to certify and the evidence they submit in support of this. That they failed to adopt the approach to analysis in *St Anselm*, was found to be incorrect. However, this does not equate to unreasonable behaviour.

22. As set out in the main decision, S.191(4) of the Act allows the local planning authority or Secretary of State to modify the terms of the application, giving a certificate in somewhat different terms so as to accord with the facts and evidence, rather than an outright refusal.

23. I concur with the view that the appellant's summary table, submitted at the Hearing, was not 'fresh' evidence, but rather sought to summarise information that had previously been available to the parties to investigate pro-actively had they chosen to, for a long time. It could reasonably be expected that NAMC would have wanted to thoroughly check any analysis in the summary table, by reference to the 'parent' data, even if the table had been presented much earlier in the process. Therefore, the timing of submission did not, in my view, result in a greater investigative burden. In any event, NAMC were allowed time to make any written representations on this information after the Hearing had taken place.

24. I have given consideration to the reliability or otherwise of the evidence submitted, within the main decision, and was able to conclude regarding the very limited extent to which the appellant's case was made out, on the balance of probability. The existence of errors in the information provided is not tantamount to unreasonable behaviour.

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

R Merrett

INSPECTOR