The Planning Inspectorate

Costs Decision

Site visit made on 12 November 2016

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 December 2016

Costs application in relation to Appeal Ref: APP/L5810/X/16/3154780
St Anne's Church, Kew Green, Richmond, TW9 3AA.

- The application is 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 application is made by CTIL and Vodaphone Ltd for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
- The appeal was against the refusal of a certificate of lawful use or development for Installation of a shared electronic communications radio base station.

Decision

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

Reasons

2. Briefly, the application alleges that the Council prevented or delayed development which should clearly be permitted, failed to produce evidence to substantiate the reason for refusal, acted contrary to well-established case law, and failed to review its case promptly following the lodging of the appeal. It is also argued at great length, and intemperately at times, that the Council officer's report is so unbalanced and deficient as to be totally worthless.

3. Underlying all of this is the viewpoint expressed that the proposal is so clearly not development as to render any argument to the contrary ridiculous, notwithstanding that there have been 2 unsuccessful planning applications. I have not come to the same conclusion, for the reasons set out in my decision, and I found the Council's case overall, including the officer's report, to be balanced and sufficient for the purposes. I have considered the case law referred to by the appellants, and the analogies they have drawn with internal security shutters in shops, but none of them provide clear guidance on the interpretation of section 55(2)(a)(i) of the 1990 Act.

4. I am satisfied that Council's decision to refuse to issue the LDC did not constitute unreasonable behaviour and the costs incurred by the appellants in the appeal were no more than the normal costs arising when the right of appeal is exercised. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and it follows that an award of costs is not justified.

Paul Dignan

INSPECTOR