Costs Decision

Site visit made on 24 April 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 3rd May 2017

Costs application in relation to Appeal Ref: APP/G5750/Z/17/3168790
829 Romford Road, Manor Park, London E12 6EA

- The application is made under section 322 of the Town and Country Planning Act 1990, Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007, and section 250(5) of the Local Government Act 1972.
- The application is made by Mr Muhammad Qadir of ASM Healthcare Limited for a full award of costs against the Council of the London Borough of Newham.
- The appeal was against the refusal of express consent for 1 illuminated led light box sign positioned within the fascia area underneath the existing 'Muhammed's Pharmacy' sign.

Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The appellant's application for costs was based on various factors that arose prior to the appeal. He contended that advice about whether or not express consent was required was not forthcoming from the Council; an erroneous enforcement notice was issued relating to a sign that already had consent and the letter apologising for the error appeared to pre-judge his application for the sign that was the subject of this appeal. The appellant also considered that the reasons for refusal were scant and unspecific.

4. Whilst I appreciate the appellant's frustration with the Council's error for issuing an enforcement notice in relation to the fascia sign, and the apparent blanket approach it took to the issuing of other such notices to premises in Romford Road, those matters are not directly relevant to this appeal. The LED sign required express consent and it was therefore unauthorised when it was installed on the shopfront. As it is an offence, under S224 of the 1990 Act and Regulation 30, to display an advertisement that requires consent without having obtained it, the Council did not act unreasonably in requiring it to be removed.

5. In my view the Council provided clear reasons for refusing the application, having regard to the development plan, supported by a brief report. Although the Regulations state that development plan policies alone cannot be decisive

when determining cases such as this one, the Council's approach was consistent with its stated aims of improving the public realm. I do not consider it acted unreasonably in refusing consent for the sign.

6. Following the Council's decision the appellant chose to exercise his right to appeal, rather than accept that the sign could not be reinstated. He presented his case accordingly and, whilst he will have incurred costs in doing so, it is normal practice for parties in planning appeals to meet their own expenses.

7. The issue of whether or not the sign caused a proliferation of signage was a matter of judgment. In this case I found in the appellant's favour and have granted consent for the sign. He has therefore not incurred unnecessary or wasted expense in the appeal process; on the contrary he has secured the outcome that he sought.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Sheila Holden

INSPECTOR