
Costs Decision

Site visit made on 2 May 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 01st June 2017

Costs application in relation to Appeal Ref: APP/X5990/W/17/3168328 43 Whitehall, London SW1A 2BX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Caffè Concerto for a full award of costs against City of Westminster Council.
 - The appeal was against the refusal of planning permission for the use of public highway for the placement of five tables and eight chairs in association with adjacent business at 43 Whitehall, London, SW1A 2BX.
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Decision

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

Reasons

2. The National Planning Practice Guidance (NPPG) 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 applicant states that the Council have acted unreasonably by having no regard to the development plan and supplementary planning documents. Furthermore, they failed to acknowledge the precedent that has been set with the granting of planning permission for tables and chairs outside No 53 Whitehall.
4. The Council's reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would conflict with. This reason was adequately substantiated by the Council in its Officer's Report and appeal statement, which demonstrates how the proposal would be significantly harmful to highway safety, referencing relevant policies of the development plan and supplementary planning documents. Whilst I appreciate that the appellant does not agree with the outcome of the application, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development. Indeed, having considered the appeal on its own merits, I have concurred with the Council.
5. Furthermore, for the reasons set out in the Council's evidence and in my Appeal Decision, the circumstances surrounding No 53 Whitehall are different to the appeal property, most notably due to the presence of the bus stops and the associated cage. Therefore, I do not agree that in granting permission for

No 53 Whitehall the Council has in any way set a precedent. Each application and appeal is to be determined on its own individual merits, and in this instance the individual merits of the appeal proposal differ to those of No 53.

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason an award for costs is therefore not justified.

Alexander Walker

INSPECTOR