
Costs Decision

Site visit made on 13 June 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 07 July 2017

Costs application in relation to Appeal Ref: APP/Z3635/Z/17/3175458 Magna House, 18-32 London Road, Staines-Upon-Thames TW18 4BP

- 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 Threadneedle Investments Ltd for a full award of costs against Spelthorne Borough Council.
 - The appeal was against refusal to grant express consent for 1 no. illuminated totem sign.
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Decision

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

Reasons

2. 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. The application for costs seeks a full award on substantive grounds¹.
3. The appellant states that the Council took an unreasonable view about the impact of the totem sign on the appearance of the appeal building and surroundings despite the commercial character of the surrounding area and the examples of other illuminated and non-illuminated totem signs nearby.
4. The officer's report demonstrates the Council's view as to how the sign affects the appearance of the appeal building and the visual amenity of the surrounding area, using the evidence submitted by the appellant, the Council's observations, the relevant planning history for the site and other material considerations. Whilst examples of other signs nearby were not specifically referred to, the officer's report provided sufficient context about the area. In any event, it is important that each application should be determined on its own merits.
5. The reason for refusal set out in the Council's decision is complete, precise, specific and relevant to the application and clearly states the National Planning Policy Framework as the appropriate supporting planning documents that the proposal would be in conflict with.

¹ Planning Practice Guidance: Paragraph 049 Reference ID 16-049-20140306

6. The appellant states that the Council acted unreasonably by solely considering the application in the context of Class 5 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 and not giving due consideration to Class 6 of the Regulations. However, the Council officer's report and the Council response to this cost application was such that I am satisfied that the appellant was made aware of the Council's views regarding the unacceptability of the totem signage in this location and the sign was erected without the necessary consent being obtained from the Council. I therefore cannot consider that the Council acted unreasonably.
7. The LPA's submission and supporting evidence clearly shows that the Council actively engaged with the appellant during the pre-application and application process and carried out their duty to assess the advertisement as submitted.
8. It will be seen for the reasons set out in my appeal decision, that whilst I do not agree with the Council in respect of the impact of the signage on the appearance of the appeal building, I do concur with them that there were sufficient grounds for dismissal caused by the adverse harm to the visual amenity of the area. I came to that decision based on my consideration of the details and merits of the appeal, having regard to all the evidence and other matters raised.
9. However, these are matters of planning judgement based on an assessment of fact and degree of the effects on the main issue relating to the appeal scheme. The Council were entitled to form their own views about the impacts of the sign even though, for the reasons set out in my appeal decision, I have reached a different conclusion on the planning merits of the case in respect of the impact of the totem sign on the appearance of the appeal building. Nonetheless for the reasons that I have given, I cannot agree that the Council has acted unreasonably in this case.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

David Troy

INSPECTOR