



Costs Decision

Site visit made on 6 August 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Costs application in relation to Appeal Ref: APP/W2465/W/18/3217412 Pavement to the east of 11 East Gates, Leicester LE1 5YA

- 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 Mr Thomas Fisher, on behalf of Euro Payphone Ltd for a full award of costs against Leicester City Council.
 - The appeal was against the refusal of planning permission for the erection of 1no. smart hub with 2no. inset digital advertising screens.
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Decision

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

Procedural Matter

2. The appeal has been lodged as part of a suite of appeals for similar devices in numerous locations throughout Leicester City Centre. The Council has provided a single response to the application for costs that encompasses all appeals.

Reasons

3. Irrespective of the outcome of the appeal, 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.
4. The Planning Practice Guidance advises that local authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The applicant states that the Council gave undue weight to an objection from its Highway Department which was based upon an in-principle objection which was not supported by a reasoned justification. The applicant asserts that he sought to engage with Highways Officers prior to determination but they failed to elucidate concerns in detail.
6. It is evident from the applicant's own submission¹ that the Council engaged with him prior to its determination of the application. The Council's second reason for refusal is precise, specific and relevant to the application. The Officer Report provides further explanation which would enable the applicant to understand the Council's concern with respect to pedestrian flow.

¹ Appellant's Statement of Case and associated appendices

7. I have concurred with the Council that the proposal would introduce an additional obstruction into an area which appears to be well used by pedestrians. Whilst I did not find that there would be a significantly harmful effect from the proposed structure, this is a matter of judgement and the Council was entitled to take a different view.
8. Given the above, the Council was not unreasonable in coming to its decision. The applicant's costs associated with the appeal were therefore a necessary part of the appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Savage

INSPECTOR