



Costs Decision

Site visit made on 21 August 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2019

Costs application in relation to Appeal Ref: APP/W2465/W/18/3217401 Pavement outside 2-6 Gallowtree Gate, Leicester LE1 1DA

- 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 Tom Fisher, Euro Payphone Ltd for a partial 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 partial costs is refused.

Procedural Matter

2. The Council has provided a single costs rebuttal statement in respect of a number of different costs application, including the one subject of this decision.

Reasons

3. 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 costs application is made on the basis that the Council gave undue weight to the consultation response of the local highway's authority. The applicant also argues that the position of highway officers was based on an in-principle objection and was not supported by reasoned justification. It is also asserted that during the application consideration process responses were brief and failed to explain concerns in detail. The applicant suggests that there was no reason to refuse the application on the grounds of public safety due to the accident record, stopping distances, impact on highway safety and pedestrian movement and lack of obstruction. Finally, it is asserted that due to a lack of clarity a broader assessment of public safety was necessary than should have reasonably be required.
5. Some of the issues raised in the applicant's cost application relate to the merits of the case, and I have had regard to those in the main decision.
6. Having reviewed the evidence I am satisfied that wide-ranging discussions took place between the parties. This was in the form of meetings with ongoing feedback covering a number of proposed sites, including the appeal site which is the subject of this costs application. In terms of highway safety matters, it is

clear that site specific advice was given, even if the parties could not rationalise their differing opinions. Whilst the applicant would have appreciated a technical assessment of highway safety, one would not be proportionate or necessary for this type of proposal. Furthermore, the Council's Statement of Case adequately expanded on its second reason for refusal with further analysis. Therefore, and notwithstanding national planning advice on matters of highway safety¹, the Council's reason for refusal is clearly explained and substantiated with reference to the development plan.

7. For the above reasons, and despite finding in favour of the applicant in respect of highway safety, I conclude that the Council has not behaved unreasonably in reaching its conclusion on this matter.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

M Aqbal

INSPECTOR

¹ Paragraph 109 of the National Planning Policy Framework