



Costs Decisions

Site visit made on 24 October 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Costs application in relation to Appeal A, Ref: APP/F5540/W/19/3234623

Costs application in relation to Appeal B, Ref: APP/F5540/W/19/3234622

Pavement outside 610 Chiswick High Road, London W4 5RU

- Appeal A: The costs 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).
 - Appeal B: The costs 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 applications are made by Urban Innovation Company for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeals were against the refusal to grant planning permission and express consent for the erection of 1no. Pulse Smart Hub with 2no. inset digital advertising screens.
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Decisions

1. The applications for an award of costs are refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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.
3. The applicant considers that the Council acted unreasonably and that this has resulted in unnecessary expense for the appellant in undertaking the appeals. It has been put to me that the Council failed to provide evidence to substantiate its refusal reasons, provided vague, generalised and inaccurate assertions, persisted in objections to the schemes which are similar to others which have previously been found to be acceptable, and have not determined similar cases in a consistent manner.
4. The Council's Decision Notices set out clear, complete refusal reasons based on conflict with the development plan. The Council's Officer Reports for each of the planning and advertisement consent applications contain details of the site's surroundings and planning history, including listing two previously approved kiosks, one in a similar location and one nearby but further along the pavement. The Officer Reports then consider and substantiate the alleged harm of the developments, and although the wrong appeal reference appears to have been given for one of the approved schemes, the appeal proposals are compared against the closest and therefore most relevant approved telephone kiosk. Albeit somewhat briefly and in general terms, the Council's appeal statement then elaborates on the main issue relevant to both appeals and also responds to various points made in the appellant's appeal statements.

5. While I have come to a different conclusion to the Council and have allowed the appeals, this does not inevitably mean that the Council acted unreasonably in refusing the applications. Although similar schemes have been approved in the locality of the appeal proposals, the evidence before me indicates that each development is different, including in relation to aspects such as size, design and appearance. The main issues and decisions for those schemes are not therefore necessarily directly applicable to the appeal proposals. Accordingly, the extant permissions for those schemes do not indicate that the appeal proposals are incontrovertibly also acceptable nor that the Council's decision to refuse the applications was inconsistent and did not have sufficient regard to relevant planning history.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR