



Costs Decision

Site visit made on 14 January 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 24th January 2020

Costs application in relation to Appeal Ref: APP/M0655/Z/19/3235850 122-126 Bridge Street, Bewsey and Whitecross, Warrington, Cheshire WA1 2RU

- 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 Mr Critchley for a full award of costs against Warrington Borough Council.
 - The appeal was against the refusal of the Council to grant express consent for the erection and display of a static (non-moving) LED backlit (luminance controlled) digital advertisement hoarding (6,196mm x 3,147mm x 160mm).
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) 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 or wasted expense in the appeal process.
3. In this case, the applicant considers that the Council behaved unreasonably including by failing to follow correct procedures in the decision-making process, not adequately assessing the impacts, failing to have adequate regard to the supporting information, not substantiating the reasons for refusal and making incorrect statements and referring to guidance which is not directly relevant.
4. The display of advertisements is subject to a separate consent process within the planning system. Therefore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply. Similarly, policies 192-196 of the National Planning Policy Framework do not need to be considered in determining applications for advertisement consent within a conservation area or related to a listed building. This is because the policy only applies to the heritage-related consent regimes under the Planning (Listed Buildings and Conservation Areas) Act 1990.
5. However, although not determinative, the PPG is clear that the relevant provisions of the development plan may be material. It was not therefore unreasonable of the Council to refer to the development plan. Moreover, although the Council did not specifically refer to the submitted heritage or planning statements, it did refer to the relevant conservation area appraisal. Irrespective that the proposed advertisement was incorrectly described at one

point in the officer's report, the Council's assessment of the impact of the proposal on heritage assets appears appropriate and proportionate.

6. While I appreciate that the decision will have been a disappointment to the applicant, the Council was entitled to exercise its planning judgement based on the evidence before it and to reach a conclusion that was contrary to that of the applicant. The appeal has provided the appellant with the opportunity to test the Council's decision. As can be seen from my appeal decision, I agreed with the Council's assessment and dismissed the appeal accordingly. It therefore follows that the reasons for refusal could be substantiated, the Council did not unjustifiably withhold consent and the appeal could not have been avoided.

Conclusion

7. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Sarah Manchester

INSPECTOR