



Costs Decision

Inquiry held on 19-22, and 25-29 January 2021

Site visits made on 12 January 2021 and 2 February 2021

by Peter Rose BA MRTPI DMS MCMl

an Inspector appointed by the Secretary of State

Decision date: 19 April 2021

Costs application in relation to Appeal Ref: APP/L5810/W/20/3249153 Arlington Works, 23-27 Arlington Road, Twickenham, TW1 2BB

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Twickenham Studios for a full award of costs against Sharpe Refinery Service Ltd.
 - The Inquiry was in connection with an appeal against the refusal of planning permission for a scheme described as 'redevelopment of the site to provide 610sqm of commercial space (B Class) within existing Buildings of Townscape Merit plus a new build unit, 24 residential units (5 x 1 bedroom, 12 x 2 bedroom and 7 x 3 bedroom) and associated car parking and landscaping'.
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Decision

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

The submissions for Twickenham Studios

2. The appellant's evidence on industrial policy was unsatisfactory and had no reasonable prospect of success. The appellant failed to have any evidence of marketing or that there is no longer a demand for industrial use, and accepted there was a market. The appellant failed to take account of clearly material matters such as an offer from Twickenham Studios who want to use the land for industrial purposes. The other material considerations the appellant advanced in the context of this case were clearly inadequate to enjoy any reasonable prospect of the appeal succeeding.
3. Accordingly, the appeal should not have been brought as it had no reasonable prospect of success¹ and a costs award should be made in favour of Twickenham Studios which was required to be represented in order to protect its position.

The response by Sharpe Refinery Service Ltd

4. The appellant maintains the proposal is policy compliant and would strengthen and intensify industrial use of the site. This would be reinforced by its proposed planning conditions.

¹ As per Planning Practice Guidance paragraph 053 Reference ID: 16-053-20140306

Reasons

5. I have found the scheme falls significantly short of the development plan's expectations in relation to industrial use.
6. Whilst highly relevant and very important to this case, industrial policies still only form part of the overall development plan context. They also remain to be weighed as part of overall planning balances relative to other material considerations, including the appellant's perceived benefits of the proposal.
7. Although I find the appellant's application of policies to be flawed, I can appreciate why it chose to consider this was not a case where it necessarily had no reasonable prospect of succeeding. The proposal is clearly not in accordance with the development plan, but other material considerations have been advanced in favour of the scheme and with supporting evidence.² In particular, the appellant has been driven by other perceived attributes of the development and the weight they should attract, including retention of some employment, improved commercial accommodation, housing benefits, a bespoke design and environmental improvement for the local area.
8. In that context, and notwithstanding the clear conflict with the development plan as a whole and the harm arising, I do not find, on balance, the appellant's actions to have been unreasonable. Ultimately, decisions may be taken that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed.³

Conclusion

9. I therefore find that unreasonable behaviour on the part of the appellant resulting in unnecessary or wasted expense incurred by the appeal, as indicated in the Guidance, has not been demonstrated. Accordingly, I conclude that an award of costs is not justified in this instance and the application is refused.

Peter Rose
INSPECTOR

² See also Guidance paragraph 053 Reference ID: 16-053-20140306

³ Framework paragraph 12