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## Costs Decision

Site visit made on 1 December 2021 by M Long

**Decision by K Taylor BSc (Hons) PGDip MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 December 2021**

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### **Costs application in relation to Appeal Ref: APP/X5990/Z/21/3281628 Ground Floor, 31 Moscow Road, London W2 4AH**

- 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 Euroterra Capital Enterprises for a full award of costs against the City of Westminster.
  - The appeal was against the refusal to grant express consent for the replacement of the existing backlit fascia sign on the principal elevation facing Moscow Road; the replacement of the existing backlit fascia sign on the side elevation facing Poplar Place; and the application of a new vinyl signage to the opaque window in Poplar Place.
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#### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

#### **Procedure**

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

#### **Reasons**

3. The Planning Practice Guidance (the Guidance) 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. An example given of a substantive matter where a local planning authority may be at risk of an award of costs is where vague, generalised or inaccurate assertions about a proposals impact are made which is unsupported by any objective analysis.
4. The Council's substantive concern related to the opaqueness of the proposed vinyl signage on the basis that it would deaden the frontage of the building and result in harm to the amenity of the area. However, the window upon which the proposed vinyl sign would be applied is already opaque. From the evidence submitted as part of the original application, it is clear that the applicant has indicated the existing opaque nature of this window, including within the drawings. The Council's reasons for refusal and officer report do not acknowledge this existing feature, nor is there an adequate explanation as to why the proposal would result in any further deadening of the frontage by virtue of its opaqueness.
5. The Council did not have appropriate regard to the submitted evidence, nor demonstrate an adequate analysis of the application site. There also appears to be a lack of communication between the Council and the applicant regarding

this matter. As a result, the applicant has had to incur unnecessary expense at the appeal stage. The offer of pre-application advice and the delivery of a timely decision do not mitigate this unreasonable behaviour.

### **Conclusion**

6. Given the above, I find that the Council has acted unreasonably and thereby caused the applicant to incur unnecessary or wasted expense in the appeal process. A claim for costs is therefore justified and accordingly it is hereby recommended that the application for costs be allowed.

*M Long*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

7. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is allowed as set out in the Order below

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the City of Westminster shall pay to Euroterra Capital Enterprises Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to the City of Westminster, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*K Taylor*

INSPECTOR