



Costs Decision

Site visit made on 26 September 2022 by T Bennett BA (Hons) MSc

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2022

Costs application in relation to Appeal Ref: APP/F5540/Z/22/3297945 Land at the Former New England Public House, Brook Lane North, Brentford, TW8 0QP

- The appeal 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 King Media Ltd for a full award of costs against the Council of the London Borough of Hounslow.
 - The appeal was against the refusal of express advertisement consent for the erection of a double-sided LED display in portrait orientation (4m wide and 8m high) mounted on a supporting steel structure to face the east and west bound M4 and public realm improvements at street level.
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Decision

1. The application for an award of costs is refused.

Appeal 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. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour and no wasted expense an award will not be justified.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters such as providing information that is shown to be inaccurate or manifestly untrue and substantive matters such as vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The application for an award of costs, the Council's response and the applicant's further response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. In summary, the applicant's case for seeking a full award of costs is grounded in both procedural and substantive matters. The appellant argues that the Council demonstrated unreasonable behaviour by inaccurately assessing the height of the proposal and failing to undertake any

objective analysis by failing to reference specific viewpoints, failing to differentiate between amenity experienced at street level or the M4 and not referencing specific properties that would be adversely affected by the proposal.

6. The Council maintains that it did not act unreasonably in arriving at its decision as it considered all the submitted plans, balancing the benefits against the harm of the proposal taking into account the relevant policies and The Framework. The Council recognise an error was made in the measurement of the supporting pole, but in the view of the Council the incorrect measurement was not substantially different from the correct height of the supporting pole. Furthermore, the Council argues that it would not have changed the outcome of the decision as the proposal would still be higher than the adjoining buildings.
7. Having had regard to the Council's officer report, irrespective of the measurement error, it is clear from reading the report that it was still determined based on the submitted elevation drawings. This is because reference was made in the report that the proposal would be higher than the adjacent building, which is evident from the submitted plans. This factor subsequently formed part of the Council's decision making when determining that the structure would be harmful to townscape amenity. I therefore concur with the Council that the outcome of the decision would not have changed.
8. Furthermore, whilst light on objective analysis, the Council's officer report did assess the proposals impact in the interests of amenity, complying with the advertisement Regulations in this respect and they did have regard to the surrounding site context and interpretation of policy. Reference was made to the advertisement on the building opposite the appeal site and reference made to the adjoining building and the impact of the proposal on townscape amenity as a result of the height and appearance of the proposal.
9. Accordingly, although the report did not refer explicitly to specific viewpoints, reference named buildings nor differentiate between amenity at street level and the M4, I am satisfied that the report did provide sufficient information to understand how the Council reached its decision, albeit that further analysis may have been beneficial. When read in the round, the level of analysis was not so lacking as to be unreasonable.
10. Moreover, even if the Council had provided further detail in the report it would not have resulted in a different decision. The substantive judgement to refuse to grant consent was not unreasonable and the proposal would have a harmful impact on amenity, for reasons set out in the associated appeal decision.

Conclusion and Recommendation

11. For the reasons given above and having had regard to all other matters raised, I find that the Council has not acted unreasonably. There are clear differences between the parties on the merits of the proposal and these were unlikely to be resolved during the application process and thus could only be dealt with at appeal. As such, the appeal process was unavoidable, and consequently there has been no unnecessary or wasted expense, as described in the PPG. A claim for costs is therefore not justified and accordingly it is hereby recommended for refusal.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall refuse the application for an award of costs.

Chris Preston

INSPECTOR