



Costs Decision

Site visit made on 14 February 2023

by P J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Costs application in relation to Appeal Ref: APP/X5990/Z/22/3307157 20 Cockspur Street, London SW1Y 5BL

- 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 Infinity Outdoor Limited for a [partial] [full] award of costs against City of Westminster Council.
 - The appeal was against the Council's refusal to permit the display of 1 non-illuminated advertisement measuring 5m (height) x 4m (width) set within a 1:1 façade replication for a temporary period of 6months.
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Decision

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

Reasons

2. Planning Practice Guidance advises that 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's position is a simple one. That is that the Council granted consent for an identical proposal in 2016, and that nothing has changed to explain why the authority has changed its view. Although there were other matters put forward by the applicant in favour of the appeal scheme, this was a major plank in the appellant's case and led to their conclusion that the Council acted unreasonably and caused them to incur the unnecessary costs of the appeal.
4. The Council's response is less easy to follow. The bulk of the response of the authority to the costs claim dealt with a number of matters including a description of the site, the reasons for refusal, comparable appeal decisions, the policy framework. These are all relevant matters in relation to the appeal decision but fail to address the appellant's specific claim related to inconsistent decision making.
5. The Council's position in relation to the 2016 approval is that at that time only the impact of the shroud was assessed and criticises the information which had been submitted at that time by the appellant. I have considered the material submitted and considered in 2016 and cannot accept the suggestion that the presence of a commercial advertisement was unclear – it was included as part of the submitted scheme and supporting material. Should there have been any doubt, could have been queried by the Council. If it was genuinely thought at

that time that there was no element of advertising in the proposal, it is unclear what the authority thought the application for advertisement consent related to.

6. I am also very concerned that the submitted officer's report on the current appeal has a space for 'Relevant planning history', but this was blank. As set out in the Council's costs response, the site has a number of items of relevant advertisement history, but this was not reported – by accident or design – to the decision maker.
7. Overall, it is clear that the previous approval was not considered when the decision on the current appeal was taken. That is unreasonable. It cannot be known whether the inclusion of that material consideration would have led to a different outcome, but I judge that it may have done, and that the appeal expense would have been unnecessary.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Council shall pay to Infinity Outdoor Limited, 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.
10. The applicant is now invited to submit to the City of Westminster Council details of those costs with a view to reaching agreement as to the amount.

P. J. G. Ware
Inspector