



Costs Decision

Site visit made on 10 October 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Costs application in relation to Appeal Ref: APP/Z4310/H/23/3319657 Advertising Right 2392, 11-13 Stanley Road, Everton Liverpool L5 2PX

- 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 Mr Benjamin Porte (Clear Channel UK) for a full award of costs against Liverpool City Council.
 - The appeal was against the grant subject to conditions of advertisement consent to display 1 x wall mounted LED Digital display.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. It is not disputed that the wording of condition 2 referred to plans which were not relevant to the advertisement due to an administrative error. The council responded to the applicants query on this matter within four working days. In this instance, that is a reasonable response time to the initial query, given the officer that was contacted works part time and the applicant did not attempt to contact the council by other means.
4. The council's solution to this error was to recommend resubmitting the application "as a free go" and then they would re-issue the decision, amending condition 2. However, Regulation 13 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) 2012, only removes the need for payment of the application fee when a similar application has been withdrawn or refused. Therefore, the council's solution is not practical and would have led to the applicant incurring additional expense.
5. The council has advised that condition 3 was imposed based on the advice from the local highway authority and was influenced by their professional experience within the local authority area and with due regard to the site context and conditions. Nevertheless, none of the evidence before me specifies why more restrictive illumination levels should be applied having regard to the site context or conditions. Likewise, it is unclear why lower illumination levels should be applied in Liverpool, compared to other local authority areas.
6. The council has acted unreasonably by imposing conditions which referred to plans which did not form part of the application and they have not

demonstrated that the specified illumination levels during daylight hours were necessary. This has led to the applicant having to submit a planning appeal, which has resulted in an unnecessary or wasted expense, as described in the PPG. Therefore, a full award of costs is justified.

Costs Order

7. 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 Liverpool City Council shall pay to Clear Channel UK, 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.
8. The applicant is now invited to submit to Liverpool City Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Hobbs

INSPECTOR