



Costs Decision

Site visit made on 23 October 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Costs application in relation to Appeal Ref: APP/M4510/Z/23/3325273 The Old Glassworks, Lemington Road, Newcastle upon Tyne NE15 8SX

- 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 Mandale Investments Limited for a full award of costs against Newcastle Upon Tyne City Council.
 - The appeal was against 1no. frame mounted advertisement (comprising 2no. adjoining boards) (retrospective).
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Decision

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

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. The PPG makes it clear that a local planning authority is at risk of an award of costs if, amongst other things, it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; providing vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; refuses planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead; and not determining similar cases in a consistent manner.
4. The applicant submits that the Council has behaved unreasonably in relation to the above-mentioned matters as the council's assessment of the temporary proposal was considered to be more intrusive than its permanent predecessor. Moreover, the applicant submits that the council has not had regard to the context and the requirements of its core strategy and has not determined cases consistently with other nearby signs. The Council has defended itself in relation to all the allegations presented.
5. There was previously a totem sign in the location of the advertisement subject of this appeal. The Council's Officer Report refers to this previous sign as having been relatively discrete and unobtrusive. However, it goes on to stipulate that as it had been removed, the current sign should be assessed on its own merits. I have no substantive evidence of any consents for the totem

sign and it was removed several years ago. Accordingly, I do not consider the Council unreasonable in assessing the application on its own merits. Moreover, it will be seen from my appeal decision that the presence of the totem sign in the past, including whether it was discrete or unobtrusive, are not matters that have not weighed in favour of my assessment.

6. It is not unreasonable for the Council to make an assessment on the site's contribution to the amenity of the area, as this exercises a certain amount of subjective judgement. The reason for refusal specifically refers to the setting of the Lemington Cone and the sign is clearly seen in its foreground when viewed from the A6085. The Council did also refer to the presence of other signs and the mixed character of the area in its assessment. As such, I do not agree that the Council acted unreasonably in refusing the application, even on a temporary basis via a condition. I confirm in this regard, that I have made my own assessment as to the amenity of the area and the effects of the proposals on this matter, having regard to its position in relation to the listed building.
7. The power to control advertisements under the Regulations¹ may be exercised only in the interests of public safety and amenity. Consequently, even if the Core Strategy supports entrepreneurship such a matter is not in itself decisive in considering the merits of an advertisement.
8. There are other advertisements in the area. However, only one permission was referred to from 2004 but that is on the northern side of the A6085 and does not appear in views in the foreground of the listed building from the road in contrast to the appeal proposal. It is instead seen in the same wider view from the A6085. Accordingly, there is no substantive evidence before me that the Council has not behaved consistently in its assessment of advertisement applications.
9. Drawing the above together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr R Walker

INSPECTOR

¹ Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007