



Costs Decision

Site visit made on 10 October 2023 by N Manley BA (Hons)

Decision by S Edwards MA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2023

**Costs application in relation to Appeal Ref: APP/X5990/Z/23/3323665
318 Oxford Street, City of Westminster, London W1C 1HF**

- 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 Infinity Outdoor Ltd for a full award of costs against the City of Westminster Council.
 - The appeal was against the refusal of express advertisement consent for a temporary replica façade building wrap to the south elevation incorporating non-illuminated static advertisement measuring 4.8m X 22m for a period of 24 months.
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Decision

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

Procedure

2. A representative of the Inspector has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. Parties in planning appeals and other planning proceedings 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.
4. The PPG notably sets out examples of unreasonable behaviour by local planning authorities. The applicant contends the council behaved unreasonably by providing vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The applicant also considers that the council persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
5. On the first ground the applicant considers that the council failed to substantiate its refusal due to a long-held objection to advertisements and as a result failed to carry out an objective analysis, for example by referring to particular viewpoints towards the appeal site. On the second point the applicant contends the council failed to take into account both modifications to the plan subsequent to the initial application and comments provided by Inspectors from similar appeals in the vicinity.
6. The council did put forward evidence to substantiate its assessment, which I find was objective and grounded on a thorough analysis. The applicant argues

that the council's case officer report is a verbatim repetition of its previous report for an earlier appeal on the site. However, whilst there are similarities, something the council does not dispute, there are also significant distinctions. The council explicitly referenced these decisions within the case officer's report and setting out the reasons why the advertisement subject to this appeal is considered harmful, leading me to conclude that the application was considered on its own merits.

7. Furthermore, the council unambiguously identified the views it believed the proposal would negatively affect by specifically naming the affected streets and providing a rationale for their conclusion. Although I reached a different conclusion from the council regarding the effect of the proposed advertisement, it has clearly set out its concerns. I am therefore satisfied that the council did not act unreasonably in refusing to grant consent for the proposed advertisement.
8. In the council's case officer report, a thorough evaluation was conducted regarding several recently dismissed appeals for similar proposals, all situated close to the appeal site. On each occasion the council explained the reasons why these decisions were considered relevant and supported its position. Nevertheless, despite the applicant providing a copy of an appeal within proximity to the site¹, it is not mentioned in the case officer report. While there are notable disparities between the two appeals, it is disappointing that the council did not explicitly acknowledge this particular appeal decision. Nonetheless, based on the presented evidence, I have no reason to believe that the council's decision would have been different, had this appeal been referenced in the case officer report.
9. The council makes reference to the content of the proposed advertisement, though there is no indication in the Regulations, National Planning Policy Framework or PPG that any factors, other than amenity and public safety, can be taken into account. However, it is important to note this does not form part of the reasons why the council refused consent for the display of the proposed advertisement.
10. Overall, I find the council adequately assessed the proposal and explained their concerns in the case officer report, with reference to adopted policy and guidance. Having regard to the presented evidence, there was no unreasonable behaviour which in this instance would have prevented the appeal.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not warranted.

N Manley

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and my representative's recommendation and, on that basis, I too agree and conclude that the applicant has failed to demonstrate unreasonable behaviour resulting in

¹ APP/X5990/Z/22/3311467

unnecessary expense as described in the PPG. The application for costs is therefore refused.

S Edwards

INSPECTOR